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*U.S. Laws, statutes, etc*

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PATENT LAWS,  
AND  
LAWS RELATING TO THE REGISTRATION OF  
TRADE-MARKS AND LABELS.

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UNITED STATES STATUTES  
CONCERNING THE  
PROTECTION AND REGISTRATION OF TRADE-MARKS AND LABELS,  
WITH THE  
RULES OF THE PATENT OFFICE RELATING THERETO.

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RULES OF PRACTICE  
IN THE  
UNITED STATES PATENT OFFICE.



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# PATENT LAWS,

AND

LAWS RELATING TO THE REGISTRATION OF  
TRADE-MARKS AND LABELS.

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APRIL, 1885.

(THIRD EDITION.)

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# PATENT LAWS.

## ORGANIZATION OF THE PATENT OFFICE.

TITLE XI, Rev. Stat., p. 80:

Title XI, Rev.  
Stat.

SEC. 475. There shall be in the Department of the Interior an office known as the Patent Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

Establishment  
of the Patent Of-  
fice.

8 July, 1870, c.  
230, s. 1, v. 16, p.  
198.

SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employés authorized by law for the Office shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of Patents. [See § 169.]

Officers and em-  
ployés.

Ibid., s. 2, p.  
198.

SEC. 477. The salaries of the officers mentioned in the preceding section shall be as follows:

The Commissioner of Patents, four thousand five hundred dollars a year.

Salaries.

Ibid., s. 4, p.  
199.

The Assistant Commissioner of Patents, three thousand dollars a year.

Three examiners-in-chief, three thousand dollars a year each.

TITLE XI, Rev. Stat., p. 74:

SEC. 440. There shall also be in the Department of the Interior—

\* \* \* \* \*

In the Patent Office:

One chief clerk, at a salary of two thousand five hundred dollars a year.

One examiner in charge of interferences, at a salary of two thousand five hundred dollars a year.

One examiner in charge of trade-marks, at a salary of two thousand five hundred dollars a year.

Twenty-four principal examiners, at a salary of two thousand five hundred dollars a year each.

Twenty-four first assistant examiners, at a salary of one thousand eight hundred dollars a year each.

Twenty-four second assistant examiners (two of whom may be women), at a salary of one thousand six hundred dollars a year each.

Twenty-four third assistant examiners, at a salary of one thousand four hundred dollars a year each.

One librarian, at a salary of two thousand dollars a year.

One machinist, at a salary of one thousand six hundred dollars a year.

Three skilled draughtsmen, at a salary of one thousand two hundred dollars a year each.

Thirty-five copyists of drawings, at a salary of one thousand dollars a year each.

One messenger and purchasing clerk, at a salary of one thousand dollars a year.

One skilled laborer, at a salary of one thousand two hundred dollars a year.

Eight attendants in the model-room, at a salary of one thousand dollars a year each.

Eight attendants in the model-room, at a salary of nine hundred dollars a year each.

Act June 15, 1880. [One examiner of designs, two thousand four hundred dollars.]

#### TITLE XI, Rev. Stat., p. 80:

Seal.

Ibid., s. 12, p. 200.

SEC. 478. The seal heretofore provided for the Patent Office shall be the seal of the Office, with which letters patent and papers issued from the Office shall be authenticated.

Bonds of Commissioner and chief clerk.

Ibid., s. 6, p. 199.

SEC. 479. The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars, and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

Restrictions upon officers and employes.

Ibid., s. 16, p. 200.

SEC. 480. All officers and employes of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the Office.

Duties of Commissioner.

Ibid., s. 7, p. 199.

SEC. 481. The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office.

Duties of examiners-in-chief.

8 July, 1870, c. 230, s. 10, v. 16, p. 199.

SEC. 482. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of



patents, and in interference cases; and, when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 483. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

Establishment  
of regulations.

Ibid., s. 19, p. 200.

SEC. 484. The Commissioner of Patents shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in the Patent Office; and the rooms and galleries shall be kept open during suitable hours for public inspection.

Arrangement  
and exhibition of  
models, &c.

Ibid., s. 13, p. 200.

SEC. 485. The Commissioner of Patents may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the Treasury, as other patent moneys are directed to be paid.

Disposals of  
models on reject-  
ed applications.

Ibid., s. 15, p. 200.

SEC. 486. There shall be purchased for the use of the Patent Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

Library.

Ibid., s. 15, p. 200.

SEC. 487. For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

Patent-agents  
may be refused  
recognition.

Ibid., s. 17, p. 200.

SEC. 488. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

Printing of pa-  
pers filed.

Ibid., s. 18, p. 200.

SEC. 489. The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

Printing copies  
of claims, laws,  
decisions, &c.

Ibid., s. 20, p. 200.

SEC. 490. The Commissioner of Patents is authorized to have printed, from time to time, for gratuitous distribution, not to exceed one hundred and fifty copies of the complete specifications and drawings of each patent hereafter issued, together with suitable indexes, one copy to be placed for free public inspection in each capital of every State and Territory, one for the like purpose in the clerk's office of

Printing speci-  
fications and  
drawings.

11 Jan., 1871,  
Res. No. 5, v. 16,  
p. 590.

the district court of each judicial district of the United States, except when such offices are located in State or Territorial capitals, and one in the Library of Congress, which copies shall be certified under the hand of the Commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence. [See § 894.]

Additional  
specifications  
and drawings.

11 Jan., 1871,  
Res. No. 5, v. 16,  
p. 590.

SEC. 491. The Commissioner of Patents is authorized to have printed such additional numbers of copies of specifications and drawings, certified as provided in the preceding section, at a price not to exceed the contract price for such drawings, for sale, as may be warranted by the actual demand for the same; and he is also authorized to furnish a complete set of such specifications and drawings to any public library which will pay for binding the same into volumes to correspond with those in the Patent Office and for the transportation of the same, and which shall also provide for proper custody for the same, with convenient access for the public thereto, under such regulations as the Commissioner shall deem reasonable.

Volumes of  
drawings, &c.,  
published by Pat-  
ent Office to be  
furnished De-  
partments.

Act of March  
3, 1875.  
Sup. to R. S.,  
vol. 1, p. 166.

Lithographing  
and engraving.

Ibid.  
24 March, 1871,  
c. 5, s. 1, v. 17, p. 2.

SEC. 12. That it shall be the duty of the Commissioner of Patents to furnish, free of cost, one copy of the bound volumes of specifications and drawings of patents published by the Patent Office, to each of the Executive Departments of the Government, upon the request of the head thereof.

SEC. 492. The lithographing and engraving required by the two preceding sections shall be awarded to the lowest and best bidders for the interest of the Government, due regard being paid to the execution of the work [the work] to be done under the supervision of the Commissioner of Patents, who shall receive competitive bids therefor.

Act March 3,  
1885.

Said photolithographing, or otherwise producing plates and copies referred to in this and the two preceding paragraphs, to be done under the supervision of the Commissioner of Patents, and in the city of Washington, if it can be there done at reasonable rates; and the Commissioner of Patents, under the direction of the Secretary of the Interior, shall be authorized to make contracts therefor.

Price of copies  
of specifications  
and drawings.

Ibid., s. 2, p. 3.

SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined by the Commissioner of Patents, within the limits of ten cents as the minimum and fifty cents as the maximum price.

Annual report  
of the Commis-  
sioner.

8 July, 1870, c.  
230, s. 9, v. 16, p.  
199.

SEC. 494. The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other

source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year; designating under proper heads the subjects of such patents; an alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent Office as may be useful to Congress or the public. [See §§ 195, 196.]

SEC. 495. The Collections of the Exploring Expedition, now in the Patent Office shall be under the care and management of the Commissioner of Patents.

SEC. 496. All disbursements for the Patent Office shall be made by the disbursing clerk of the Interior Department.

SEC. 629. The circuit courts shall have original jurisdiction as follows:

\* \* \* \* \*

Ninth. Of all suits at law or in equity arising under the patent or copyright laws of the United States.

230, ss., 55, 106, v. 16, pp. 206, 215; 16 Feb., 1875, c. 77, s. 2, v. 18, p. 314; Allen v. Blunt, 1 Blatch., 480; Goodyear v. Day, 1 Blatch., 565; Goodyear v. Union India Rubber Company, 4 Blatch., 63; Burr v. Gregory, 2 Paine, 426; Brooks v. Stally, 3 McLean, 523; Pulte v. Derby, 5 McLean, 328.

SEC. 690. The Supreme Court shall have appellate jurisdiction in the cases hereinafter specially provided for.

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SEC. 699. A writ of error may be allowed to review any final judgment at law, and an appeal shall be allowed from any final decree in equity hereinafter mentioned, without regard to the sum or value in dispute:

First. Any final judgment at law or final decree in equity of any circuit court, or of any district court acting as a circuit court, or of the supreme court of the District of Columbia, or of any Territory, in any case touching patents-rights or copyrights.

Stimson v. Railroad, 10 How., 346; Sizer v. Maney, 16 How., 98; Brown v. Shannon, 20 How., 55.

SEC. 711. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

\* \* \* \* \*

Fifth. Of all cases arising under the patent-right or copyright laws of the United States.

\* \* \* \* \*

# TITLE XIII, Rev. Stat., p. 169:

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters patent authenticated by the seal and certified by the Commissioner or Acting Commissioner thereof, shall be evi-

Custody of collections of Exploring Expedition.

4 Aug., 1854, c. 242, s. 8, v. 10, p. 572.

Disbursements for Patent Office.

8 July, 1870, c. 230, s. 63, v. 16, p. 209.

Jurisdiction.

Patent and copyright suits.

8 July, 1870, c.

Writs of error and appeals, without reference to amount.

Appellate jurisdiction.

Writs of error and appeals, without reference to amount.

Patent and copyright cases.

8 July, 1870, c. 230, ss. 56, 107, v. 16, pp. 207, 215; Hogg v. Emerson, 6 How., 477;

Exclusive jurisdiction of courts of United States.

Copies of records, &c., of Patent Office.

Ibid., s. 57, p. 207.

*Brooks et al. vs. Jenkins et al.*, 3 McLean, 432; *Parker vs. Harworth*, 4 McLean, 370; *Pottibone vs. Durringer*, 4 Wash. C. C., 215; *Lee vs. Blandy*, 2 Fish, 89 (see 1 Bond, 361); *Woodworth vs. Hall, Wood. & Minn.*, 260; *Emerson vs. Hogg*, 2 Blatch., 12.

Copies of foreign letters patent.

*Ibid.*, s. 57, p. 207.

Printed copies of specifications and drawings of patents.

11 Jan., 1871, Res. 5, v. 16, p. 590.

Costs not recoverable in certain suits for infringement of patent unless disclaimer entered, &c.

8 July, 1870, c. 230, s. 60, v. 16, p. 207.

Patented articles connected with marine engines.

18 July, 1861, c. 8, s. 3, v. 12, p. 268.

No royalty to be paid by United States to its officers for patent mentioned in preceding section.

6 June, 1872, c. 316, v. 17, p. 261.

Patents, how issued, attested, and recorded.

8 July, 1870, c. 230, s. 21, v. 16, p. 200.

*Doughty vs. West*, 6 Blatch., 429.

dence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law shall have certified copies thereof.

SEC. 893. Copies of the specifications and drawings of foreign letters patent certified as provided in preceding section, shall be prima facie evidence of the fact of the granting of such letters patent, and of the date and contents thereof.

SEC. 894. The printed copies of specifications and drawings of Patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitol of the States and Territories, and in the clerk's offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained. [See § 490.]

SEC. 973. When judgment or decree is rendered for the plaintiff or complainant, in any suit at law or in equity, for the infringement of a part of a patent, in which it appears that the patentee, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor, no costs shall be recovered, unless the proper disclaimer, as provided by the patent laws, has been entered at the Patent Office before the suit was brought.

SEC. 1538. No patented article connected with marine engines shall hereafter be purchased or used in connection with any steam vessels of war until the same shall have been submitted to a competent board of naval engineers, and recommended by such board, in writing, for purchase and use.

#### TITLE XVII, Rev. Stat., p. 292:

SEC. 1673. No royalty shall be paid by the United States to any one of its officers or employes for the use of any patent for the system, or any part thereof, mentioned in the preceding section, nor for any such patent in which said officers or employes may be directly or indirectly interested.

#### PATENTS.

#### TITLE LX, Rev. Stat., chap. 1, p. 945:

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office, in books to be kept for that purpose.

An act to amend section four thousand eight hundred and eighty-three of the Revised Statutes to enable the Assistant Secretary of the Interior to sign patents.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section four thousand eight hundred and eighty-three of the Revised Statutes is hereby amended by inserting after the words "Secretary of the Interior," where they occur therein, the following words: "or under his direction by one of the Assistant Secretaries of the Interior," so that the said section as amended will read as follows:

"SECTION 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Secretary of the Interior or under his direction by one of the Assistant Secretaries of the Interior, and countersigned by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office, in books to be kept for that purpose."

Approved, February 18, 1888.





SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and Territories thereof, referring to the specification for the particulars thereof. A copy of the specification and drawings shall be annexed to the patent and be a part thereof.

Contents and duration.

*Ibid.*, s. 22. p. 201.  
*Simpson vs. Wilson*, 4 How., 709; *Pitts vs. Whitman*, 2 Story, 614; *Sullivan vs. Redfield*, 1 Paine, 441; *Emerson vs. Hogg*, 2 Blatch., 9; *Doughty vs. West*, 6 Blatch., 429; *Whitney vs.*

*Emmett*, Baldw., 314; *Boyd vs. Brown*, 3 McLean, 297.

SEC. 4885. Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

Date of patent.

*Ibid.*, s. 23. p. 201.

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may upon payment of the fees required by law, and other due proceedings had, obtain a patent therefor.

What inventions are patentable.

*Ibid.*, s. 24. p. 201.  
*Gaylor vs. Brown*, 10 How., 477; *Hotchkiss vs. Greenwood* 11 How., 248; *Le Roy vs. Tatham*, 14 How., 156; *O'Reilly vs. Morse*, 15 How., 62; *Corning vs. Burden*, 15 How., 252; *Kendall vs. Winsor*, 21 How., 322; *Appleton vs. Bacon and North*, 2 Bl., 699; *Burr vs. Duryee*, 1 Wall., 531; *Jacobs vs. Baker*, 7 Wall., 295; *Tyler vs. Boston*, 7 Wall., 327; *Agawam Co. vs. Jordan*, 7 Wall., 583; *Whitely vs. Swayne*, 7 Wall., 685; *Rubber Co. vs. Goodyear*, 9 Wall., 788; *Stimpson vs. Woodman*, 10 Wall., 117; *Gorham Co. vs. White*, 14 Wall., 511; *Mowry vs. Whitney*, 14 Wall., 620; *Carlton vs. Booke*, 17 Wall., 463; *Coffin vs. Ogden*, 18 Wall., 120; *Hicks vs. Kelsey*, 18 Wall., 670; *Woodcock vs. Parker*, 1 Gallis., 437; *Ollivier vs. Winkley*, 2 Gallis., 51; *Ames vs. Howard*, 1 Sumn., 482; *Ilyan vs. Goodwin*, 3 Sumn., 518; *How vs. Abbott*, 2 Story, 194; *Bean vs. Smallwood*, 2 Story, 411; *Carver vs. Brintree Manuf. Co.*, 2 Story, 438; *Hovey vs. Stevens*, 3 Wood & M., 17; *Foot vs. Silsby*, 1 Blatch., 445; *Parkhurst vs. Kinsman*, 1 Blatch., 493; *Hall vs. Wiles*, 2 Blatch., 194; *McCormick vs. Seymour*, 2 Blatch., 240; *Ellithorpe vs. Robinson*, 4 Blatch., 307; *Morton vs. The New York Eye Infirmary*, 5 Blatch., 116; *Hoffman vs. Stiefel*, 7 Blatch., 58; *Leutgen vs. Kanovs and Graunt*, 1 Wash., 171; *Park vs. Little and Wood*, 3 Wash., 198; *Kncass vs. The Schuylkill Bank*, 4 Wash., 12; *Whitney vs. Emmett*, Baldw., 314; *Goodyear vs. The Railroad*, 2 Wall., Jr., 360; *Smith vs. Pearce*, 2 McLean, 178; *Root vs. Ball and Davis*, 4 McLean, 177; *Hotchkiss vs. Greenwood and Wood*, 4 McLean, 461; *Stainthorp vs. Humiston*, 1 Fish. Pat. Cas., 475; *Poillon vs. Schmidt*, 3 Fish. Pat. Cas., 476.

The Secretary of the Interior and the Commissioner of Patents are authorized to grant any officer of the Government, except officers and employes of the Patent Office, a patent for any invention of the classes mentioned in section forty-eight hundred and eighty-six of the Revised Statutes, when such invention is used or to be used in the public service, without the payment of any fee: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be used by the Government, or by any of its officers or employes in the prosecution of work for the Government, or by any other person in the United States, without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

Act March 3, 1883. U. S. Stat. XXII., p. 625.

Patents granted to officers, &c., of the United States, R. S. 4886; exceptions.

Proviso.

Patents for inventions previously patented abroad.

8 July, 1870, c. 230, s. 25, v. 16, p. 201.

*O'Reilly vs. Morse*, 15 How., 62; *Hays vs. Sulsor*, 1 Fish. Pat. Cas., 532; *Judson vs. Cope*, 1 Fish. Pat. Cas., 615.

SEC. 4887. No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same has been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest term, and in no case shall it be in force more than seventeen years.

Requisites of application, description, specification, and claim.

*Ibid.*, s. 26, p. 201.

*Evans vs. Eaton*, 7 Wh., 434; *Wood vs. Underhill*, 5 How., 1; *Hogg vs. Emerson*, 11 How., 587; *O'Reilly vs. Morse*, 15 How., 62; *Corn-ing vs. Burden*, 11 How., 252; *Le Roy vs. Tatham*, 22 How., 132; *Phillips vs. Paige*, 24 How., 164; *Tyler vs. Boston*, 7 Wall., 327; *Carl-ton vs. Bokee*, 17 Wall., 463; *Lang-don vs. De Groot*, 1 Paine, 203; *Sul-livan vs. Redfield*, 1 Paine, 450; *Man-y vs. Jagger*, 1 Blatch., 372; *Gray and Osgood vs. James*, Pet. C. C., 401; *Park vs. Little and Wood*, 3 Wash., 198; *Brooks and Morris vs. Bicknell and Jenkins*, 3 McLean, 250.

Drawings, when requisite.

*Ibid.*, s. 27, p. 201.

*O'Reilly vs. Morse*, 15 How., 62; *Washburn vs. Gould*, 3 Story, 133.

Specimens of ingredients, &c.

8 July, 1870, c. 230, s. 20, v. 16, p. 201.

Model, when requisite.

*Ibid.*, s. 29, p. 201.

*Hogg vs. Emerson*, 6 H., 437; *McCormick vs. Talcott*, 20 How., 409.

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor and attested by two witnesses.

SEC. 4889. When the nature of the case admits of drawings, the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawing, to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

SEC. 4891. In all cases which admit of representation by model, the applicant, if required by the Commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.



SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent, holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be.

Oath required from applicant.

*Ibid.*, s. 30, p. 202.

*Hogg vs. Emerson*, 6 How., 437; *Whittemore vs. Cutter*, 1 Gall. 429; *Crampton vs. Belknap Mills*, 3 Fish. Pat. Cas., 536.

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

Examination and issuing patent.

*Ibid.*, s. 31, p. 202.

SEC. 4894. All applications for patents shall be completed and prepared for examination within two years after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

Limitation upon time of completing applications.

*Ibid.*, s. 32, p. 202.

*Bell vs. Daniels*, 1 Bond, 212.

SEC. 4895. Patents may be granted and issued or reissued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a reissue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the eighth day of July, eighteen hundred and seventy.

Patents granted to assignee.

*Ibid.*, s. 33, p. 202.

3 March, 1871, c. 132, v. 16, p. 583. *Gaylor vs. Wilder*, 10 How., 477; *Swift vs. Whisen*, 3 Fish. Pat. Cas., 343.

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall

When and on what oath executor or administrator may claim patent.

8 July, 1870, c. 230, s. 34, v. 16, p. 202.

*Rubber Co. vs. Goodyear*, 9 Wall., 788.

have left a will, disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them.

Renewal of application in cases of failure to pay fees in season.

*Ibid.*, s. 35, p. 202.

SEC. 487. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

Assignments of patents.

*Ibid.*, s. 36, p. 203.

*Woodworth vs. Wilson*, 1 How., 712; *Wilson vs. Simpson*, 9 How., 49; *Gaylor vs. Wilder*, 10 How., 477; *Bloomer vs. McQuewan*, 14 How., 539; *Kineman vs. Parkhurst*, 18 How., 289; *Hartshorn vs. Day*, 19 How., 211; *Railroad Co. vs. Trimble*, 10 Wall., 367; *Nicolson Pavement Co. vs. Jenkins*, 14 Wall., 452; *Adams vs. Burke*, 17 Wall., 453; *Eunson vs. Dodge*, 18 Wall., 414; *Goodyear vs. Cary*, 4 Blatch., 271; *Perry vs. Corning*, 7 Blatch., 195; *Bell vs. McCullough*, 1 Bond, 194; *Hussey vs. Whitely*, 1 Bond, 497; *Pitts vs. Jameson*, 15 Barb. (N. Y.), 310.

Persons purchasing of inventor, before application, may use or sell the thing purchased.

8 July, 1870, c. 230, s. 37, v. 16, p. 203.

*Kendall vs. Winsor*, 21 How., 322; *Sargent vs. Seagrave*, 2 Curt. C. C., 555; *Root vs. Ball and Davis*, 4 McLean, 177.

SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

SEC. 4899. Every person who purchases of the inventor, or discoverer, or with his knowledge and consent constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of the article, this cannot be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee," or the words "letters patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent" or any word importing that the same is patented, for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

SEC. 4902. Any citizen of the United States who makes any new invention or discovery, and desires further time to mature the same, may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof, and of its distinguishing characteristics, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat would in any

Patented articles must be marked as such.

Ibid., s. 38, p. 203.

Rubber Co. vs. Goodyear, 9 Wall., 788; Goodyear vs. Allyn, 6 Blatch., 33.

Penalty for falsely marking or labeling articles as patented.

Ibid., s. 39, p. 203.

Filing and effect of caveats.

8 July, 1870, c. 230, s. 40, v. 16, p. 203.

Bell vs. Daniels, 1 Bond, 212.

manner interfere, the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office, and give notice thereof, by mail, to the person by whom the caveat was filed. If such person desires to avail himself of his caveat, he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto; which time shall be indorsed on the notice. An alien shall have the privilege herein granted, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

Notice of rejection of claim for patent to be given to applicant.

*Ibid.*, s. 41, p. 204.

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

Interferences.

*Ibid.*, s. 42, p. 204.

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

Affidavits and depositions.

8 July, 1870, c. 230, s. 43, v. 16, p. 204.

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States, or of the State where the officer resides.

Subpœnas to witnesses.

*Ibid.*, sec. 44, p. 204.

SEC. 4906. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpœna for any witness residing



or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits, at any time and place in the subpoena stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpoena is served upon him.

SEC. 4907. Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

Witness fees.

*Ibid.*, s. 45.

SEC. 4908. Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

Penalty for failing to attend or refusing to testify.

*Ibid.*, secs. 44, 45.

SEC. 4909. Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in charge of interferences in such case, to the board of examiners-in-chief; having once paid the fee for such appeal.

Appeals from primary examiners to examiners-in-chief.

*Ibid.*, s. 46.

SEC. 4910. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

From examiners-in-chief to Commissioner.

*Ibid.*, s. 47, p. 205.

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the Supreme Court of the District of Columbia, sitting in banc.

From the Commissioner to the Supreme Court, District of Columbia.

*Ibid.*, s. 48.

SEC. 4912. When an appeal is taken to the Supreme Court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

Notice of such appeal.

8 July, 1870, c. 230, s. 49, v. 16, p. 205.

SEC. 4913. The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence

Proceedings on appeal to Supreme Court.

*Ibid.*, s. 51.

in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

Determination  
of such appeal  
and its effect.

*Ibid.*, s. 50.  
*Fry v. Quinlan*,  
13 Blatch, 205.

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the Commissioner a certificate of its proceedings and decisions, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of such patent in any court wherein the same may be called in question.

Patents obtain-  
able by bill in  
equity.

*Ibid.*, s. 52.

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the Supreme Court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudicate that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceedings shall be paid by the applicant, whether the final decision is in his favor or not. [See § 629, p. 9.]

(R. S. rel. to  
Dist. of Col.)  
Appeals from  
Commissioner of  
Patents.

8 July, 1870, c.  
230, secs. 48, 49,  
50, 51, v. 16, p.  
205.

SEC. 780. The Supreme Court, sitting in banc, shall have jurisdiction of and shall hear and determine all appeals from the decisions of the Commissioner of Patents, in accordance with the provisions of section forty-nine hundred and eleven to section forty-nine hundred and fifteen, inclusive, of chapter one, Title LX, of the Revised Statutes, "Patents, Trade-marks, and Copyrights." (See R. S. U. S., p. 958. See R. S. U. S., Sec. 699.)

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention (or discovery more than he had a right to claim as new, if the error has arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in the case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a reissue for each of such reissued letters patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so reissued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more

Reissue of defective patents.

8 July, 1870, c. 230, s. 53, v. 16, p. 205.

Shaw vs. Cooper, 7 Pet., 292; Wilson vs. Rousseau, 4 How., 646; Moffitt vs. Garr, 1 Bl., 273; Reed vs. Bowman, 2 Wall., 591; Commissioner vs. Whitely, 4 Wall., 522; Bennett vs. Fowler, 8 Wall., 445; Morey vs. Lockwood, 8 Wall., 230; Seymour vs. Osborne, 11 Wall., 516; Carlton vs. Booke, 17 Wall., 463; Ames vs. Howard, 1 Sumn., 488; Carver vs. Braintree Manufacturing Co., 2 Story, 439; Allen vs. Blunt, 3 Story, 743; Woodward vs. Stone, 3 Story, 753; Woodworth vs. Hal., 1 Wood. & M., 261, 262; Allen vs. Blunt, 2 Wood. & M., 138; Woodworth vs. Edwards, 3 Wood. & M., 126; Forbes vs. Stove Co., 2 Cliff., 379; Cahart vs. Austin, 2 Cliff., 528; Gibson vs. Harris, 1 Blatch., 169; Potter vs. Holland, 4 Blatch., 206; Batten vs. Taggart, 2 Wall., jr., 102; Stanley vs. Whipple, 2 McLean, 37; Moffitt vs. Garr, 1 Bond, 315.

Disclaimer.

Ibid., s. 54, p. 206.

Silby vs. Foote, 14 How., 218; O'Reilly vs. Morse, 15 How., 121; Seymour vs. McCormick, 19 How., 206; Wyeth vs. Stone, 1 Story, 294; Reed vs. Cutter, 1 Story, 600; Guyon vs. Serrell, 1 Blatch., 244; Hall vs. Wilds, 2 Blatch., 198; Tuck vs. Bramhill, 6 Blatch., 95; Whitney vs. Emmett, 1 Baldw., 313; Brooks vs. Jenkins, 4 McLean, 449.

witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

Suits touching interfering patents.

8 July, 1870, c. 230, s. 58, v. 16, p. 297.

Foster v. Lindsay, 3 Dill., 127.

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

Suits for infringement; damages.

Ibid., s. 59, p. 207.

Dean vs. Mason, 20 How., 198; Corporation of New York vs. Ransom, 23 How., 487; Moore vs. Marsh, 7 Wall., 515; Mowry vs. Whitney, 14 Wall., 620; Mitchell vs. Hawley, 16 Wall., 544;

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested, either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

Pleading and proof in actions for infringement.

Ibid., s. 61, p. 208.

Blanchard vs. Putnam, 8 Wall., 420; Wise vs. Ellis, 9 Wall., 737.

SEC. 4920. In any action for infringement the defendant may plead the general issue, and having given notice in writing to the plaintiff or his attorney, thirty days before, may prove, on trial, any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,



Third. That it had been patented or described in some printed publication prior to his supposed invention or discovery thereof; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented, or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement, the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

ney, 14 Wall., 629; Mitchell *vs.* Hawley, 16 Wall., 544; Philip *vs.* Nock, 17 Wall., 460; Neamith *vs.* Calvert, 1 Wood & M., 34; Woodworth *vs.* Edwards, 3 Wood & M., 120; Woodworth *vs.* Weed, 1 Blatch., 165; Allen *vs.* Blunt, 1 Blatch., 486; Wilson *vs.* Sherman, 1 Blatch., 536; Goodyear *vs.* Day, 1 Blatch., 565; Goodyear *vs.* Rubber Co., 4 Blatch., 63; Tatham *vs.* Lowber, 4 Blatch., 86; Goodyear *vs.* Allyn, 6 Blatch., 33; Ogle *vs.* Ege, 4 Wash., 584; Blank *vs.* Manufacturing Co., 3 Wall., jr., 196; Brooks *vs.* Strolley, 3 McLean, 523; Hussey *vs.* Whitely, 1 Bond, 497.

SEC. 2. That said courts, [U. S. circuit courts] when sitting in equity for the trial of patent causes, may impanel a jury of not less than five and not more than twelve persons, subject to such general rules in the premises as may, from time to time, be made by the Supreme Court, and submit to them such questions of fact arising in such cause as such circuit court shall deem expedient.

Power of courts to grant injunctions and estimate damages.

8 July, 1870, c. 230, s. 55, v. 16, p. 206.

Woodworth *vs.* Wilson, 4 How., 712; Hogg *vs.* Emerson, 11 How., 587; Livingston *vs.* Woodworth, 15 How., 546; Seymour *vs.* McCormick, 16 How., 489; Dean *vs.* Mason, 20 How., 198; Corporation of New York *vs.* Ransom, 23 How., 487; Moore *vs.* Marsh, 7 Wall., 515; Rubber Co. *vs.* Goodyear, 9 Wall., 788; Mowrey *vs.* Whit-

In patent cases, circuit courts may submit questions of fact to jury.

Act of Feb. 16, 1875, Sup. to R. S., vol. 1, p. 136; R. S., s. 629, par. 9; 101 U. S., 247.

And the verdict of such jury shall be treated and proceeded upon in the same manner and with the same effect as in the case of issues sent from chancery to a court of law and returned with such findings.

Suit for infringement where specification is too broad.

8 July, 1870, c. 230, s. 60, v. 16, p. 207.

*O'Reilly vs. Morse*, 15 How., 62; *Seymour vs. McCormick*, 19 How., 106; *Silby vs. Foote*, 20 How., 378; *Vance vs. Campbell*, 1 Bl., 427; *Wyeth vs. Stone*, 1 Story, 273; *Reed vs. Cutter*, 1 Story, 600; *Pitts vs. Whitman*, 2 Story, 621; *Guyon vs. Serrel*, 1 Blatch., 244; *Hall vs. Wilds*, 2 Blatch., 198, 199; *Brooks vs. Jenkins*, 3 McLean, 449.

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any willful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably neglected or delayed to enter a disclaimer.

Patent not void on account of previous use in foreign country.

*Ibid.*, s. 62, p. 208.

*Judson vs. Cope*, 1 Bond, 327; *Bartholomew vs. Sawyer*, 1 Fish. Pat. Cas., 516; *How vs. Morton*, 1 Fish. Pat. Cas., 586.

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

Extension of patents granted prior to March 2, 1861.

8 July, 1870, c. 230, s. 63, v. 16, p. 208.

*Commissioner vs. Whitely*, 4 Wall., 522.

SEC. 4924. Where the patentee of any invention or discovery, the patent for which was granted prior to the second day of March, eighteen hundred and sixty-one, shall desire an extension of this patent beyond the original term of its limitation, he shall make application therefor in writing to the Commissioner of Patents, setting forth the reasons why such extension should be granted; and he shall also furnish a written statement under oath of the ascertained value of the invention or discovery, and of his receipts and expenditures on account thereof, sufficiently in detail to exhibit a true and faithful account of the loss and profit in any manner accruing to him by reason of the invention or discovery. Such application shall be filed not

more than six months nor less than ninety days before the expiration of the original term of the patent; and no extension shall be granted after the expiration of the original term.

SEC. 4925. Upon the receipt of such application and the payment of the fees required by law, the Commissioner shall cause to be published in one newspaper in the city of Washington, and in such other papers published in the section of the country most interested adversely to the extension of the patent as he may deem proper, for at least sixty days prior to the day set for hearing the case, a notice of such application, and of the time and place when and where the same will be considered, that any person may appear and show cause why the extension should not be granted.

What notice of application for extension must be given.

8 July, 1870, c. 230, s. 64, vs. 16, p. 208.

SEC. 4926. Upon the publication of the notice of an application for an extension, the Commissioner shall refer the case to the principal examiner having charge of the class of inventions to which it belongs, who shall make the Commissioner a full report of the case, stating particularly whether the invention or discovery was new and patentable when the original patent was granted.

Applications for extension, to whom to be referred.

*Ibid.*, s. 65.

SEC. 4927. The Commissioner shall, at the time and place designated in the published notice, hear and decide upon the evidence produced both for and against the extension; and if it shall appear to the satisfaction of the Commissioner that the patentee, without neglect or fault on his part, has failed to obtain from the use and sale of his invention or discovery a reasonable remuneration for the time, ingenuity, and expense bestowed upon it, and the introduction of it into use, and that it is just and proper, having due regard to the public interest, that the term of the patent should be extended, the Commissioner shall make a certificate thereon, renewing and extending the patent for the term of seven years from the expiration of the first term. Such certificate shall be recorded in the Patent Office; and thereupon such patent shall have the same effect in law as though it had been originally granted for twenty-one years.

Commissioner to hear and decide the question of extension.

*Ibid.*, s. 66, p. 209.

Woodworth vs. Edwards, 3 Wood & M., 120; Gibson vs. Harris, 1 Blatch., 167; Colt vs. Young, 2 Blatch., 471.

SEC. 4928. The benefit of the extension of a patent shall extend to the assignees and grantees of the right to use the thing patented, to the extent of their interest therein.

Operation of extensions.

*Ibid.*, s. 67, p. 209.

Wilson vs. Rousseau, 4 How., 646; Bloomer vs. McQuewan, 14 How., 549; Chaffee vs. The Boston Belting Co., 22 How., 223; Bloomer vs. Millinger, 1 Wall., 340; Nicholson Paving Co. vs. Jenkins, 14 Wall., 452; Eunson vs. Dodgo, 18 Wall., 414; Gibson vs. Cook, 2 Blatch., 146; Blanchard vs. Whitney, 3 Blatch., 307; Day vs. Rubber Co., 3 Blatch., 488; Phelps vs. Comstock, 4 McLean, 323.

## DESIGNS.

Patents for designs authorized.

*Ibid.*, s. 71, p. 209.

Clark *vs.* Bousfield, 10 Wall, 133; Gorham Co. *vs.* White, 14 Wall, 511; Booth *vs.* Gareilly, 1 Blatch, 247; Root *vs.* Ball, 4 McLean, 189.

SEC. 4929. Any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, patent, [pattern,] print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, or patented or described in any printed publication, may, upon payment of the fee prescribed, and other due proceedings had the same as in cases of inventions or discoveries, obtain a patent therefor.

Models of designs.

8 July, 1870, c. 230, s. 75, v. 15, p. 210.

Duration of patents for designs.

*Ibid.*, s. 73.

Extension of patents for designs.

*Ibid.*, s. 74.

SEC. 4930. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 4931. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

SEC. 4932. Patentees of designs issued prior to the second day of March, eighteen hundred and sixty-one, shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries, issued prior to the second day of March, eighteen hundred and sixty-one.

Patents for designs subject to general rules of patent law.

*Ibid.*, s. 76.

SEC. 4933. All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this Title, shall apply to patents for designs.

## FEES.

Fees in obtaining patents, &c.

*Ibid.*, s. 68, p. 209; s. 75, p. 210. 24 March, 1871, c. 5, s. 2, v. 17, p. 3.

SEC. 4934. The following shall be the rates for patent fees:

On filing each original application for a patent, except in design cases, fifteen dollars.

On issuing each original patent, except in design cases, twenty dollars.

In design cases: For three years and six months, ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

On every application for the extension of a patent, fifty dollars.

On the granting of every extension of a patent, fifty dollars.

On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

For copies of drawings, the reasonable cost of making them.

SEC. 4935. Patent fees may be paid to the Commissioner of Patents, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositories, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

Mode of payment.

8 July, 1870, c. 230, s. 69, v. 16, p. 209.

SEC. 4936. The Treasurer of the United States is authorized to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depository, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

Refunding.

Ibid., s. 70.

*Be it enacted, &c.,* That the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-nine, and for other purposes," approved June twentieth, eighteen hundred and seventy-eight, be, and the same is hereby, amended by adding to the clause of said act relating to the binding of books for the Departments of the Government, after the words "Congressional Library,"

Restrictions as to binding not to apply to library of Patent Office.

Act of Feb. 26, 1879. Sup. to R. S., vol. 1, p. 420. R. S., ss. 3785, 3790.



the following words: "nor to the Library of the Patent Office," nor to the Library of the Department of State.

Classified  
abridgment of  
letters patent.  
Act of March  
3, 1881. Sup. to  
R. S., vol. 1, p.  
613.

*Be it enacted, &c.*, [Sec. 1]. That the sum of ten thousand dollars be, and the same hereby is, appropriated, out of any moneys belonging to the patent fund in the Treasury not otherwise appropriated, to be expended under the direction of the Commissioner of Patents in the preparation of classified abridgments of all letters patent of the United States.

How printed  
and distributed.

SEC. 2. That the said abridgment shall be printed, and one copy of each shall be furnished to each Senator, Representative, and Delegate in Congress; one copy to each of eight public libraries to be designated by each Senator, Representative, and Delegate; and two copies to the Library of Congress; and also copies to such foreign Governments, libraries, and learned societies as the Commissioner of Patents may designate: *Provided*, That copies shall be sold at the cost of printing, and all sums received from such sale shall, on or before the first day of each month, be paid into the Treasury.

To be sold at  
cost.

## LABELS.

June 18, 1874.

Sup. to R. S.,  
vol. 1, p. 40.  
Infringement  
of copyrights.

R. S., s. 4962.  
14 Blatch., 264.

**CHAP. 301.**—An act to amend the law relating to patents, trademarks, and copyrights.

*Be it enacted, &c.* [Section 1], That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the same shall be mounted, the following words, viz: "Entered according to act of Congress, in the year —, by A. B., in the office of the Librarian of Congress, at Washington;" or, at his option, the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out; thus — "Copyright, 18—, by A. B."

Copyright fees.  
R. S., s. 4958.

SEC. 2. That for recording and certifying any instrument of writing for the assignment of a copyright, the Librarian of Congress shall receive from the persons to whom the service is rendered, one dollar; and for every copy of an assignment, one dollar; said fee to cover, in either case, a certificate of the record, under seal of the Librarian of Con-

gress; and all fees so received shall be paid into the Treasury of the United States.

SEC. 3. That in the construction of this act, the words "engraving," "cut," and "print," shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copy-right law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record under the seal of the Commissioner of Patents, to the party entering the same.

Restriction on application of words "Engraving," "cut," and "print."

Other prints and labels may be registered in Patent Office.

Commissioner of Patents charged with supervision.  
Fees.

R. S., ss. 4929  
4952, 4962.

SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

Repeal.

SEC. 5. That this act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

When act takes effect.

## REPEAL PROVISIONS.

TITLE LXXIV, Rev. Stat., p. 1085:

SEC. 5595. The foregoing seventy-three titles embrace the statutes of the United States general and permanent in their nature, in force on the first day of December, one thousand eight hundred and seventy-three, as revised and consolidated by commissioners appointed under an act of Congress, and the same shall be designated and cited as The Revised Statutes of the United States.

What Revised Statutes embraced.

SEC. 5596. All acts of Congress passed prior to said first day of December, one thousand eight hundred and seventy-three, any portion of which is embraced in any section of said revision, are hereby repealed, and the section applicable thereto shall be in force in lieu thereof; all parts of such acts not contained in such revision, having been repealed or superseded by subsequent acts, or not being general and permanent in their nature: *Provided*, That the incorporation into said revision of any general and permanent provision, taken from an act making appropriations, or from an act containing other provisions of a private, local, or temporary character, shall not repeal, or in any way affect any appropriation, or any provision of a private, local, or temporary

Repeal of acts embraced in revision.

U. S. v. Jordan,  
2 Low., 537.

character, contained in any of said acts, but the same shall remain in force; and all acts of Congress passed prior to said last-named day, no part of which are embraced in said revision, shall not be affected or changed by its enactment.

Accrued rights reserved.

SEC. 5597. The repeal of the several acts embraced in said revision shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before the said repeal, but all rights and liabilities under said acts shall continue, and may be enforced in the same manner, as if said repeal had not been made; nor shall said repeal in any manner affect the right to any office, or change the term or tenure thereof.

Prosecutions and punishments.

SEC. 5598. All offenses committed, and all penalties or forfeitures incurred under any statute embraced in said revision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect as if said repeal had not been made.

Acts of limitation.

SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in said revision and covered by said repeal, shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

Arrangement and classification of sections.

SEC. 5600. The arrangement and classification of the several sections of the revision have been made for the purpose of a more convenient and orderly arrangement of the same, and therefore no inference or presumption of a legislative construction is to be drawn by reason of the Title under which any particular section is placed.

Acts passed since Dec. 1, 1873, not affected.

SEC. 5601. The enactment of the said revision is not to affect or repeal any act of Congress passed since the first day of December, one thousand eight hundred and seventy-three, and all acts passed since that date are to have full effect as if passed after the enactment of this revision, and so far as such acts vary from, or conflict with, any provision contained in said revision, they are to have effect as subsequent statutes, and as repealing any portion of the revision inconsistent therewith.

Approved June 22, 1874.



## TRADE-MARKS.

AN ACT to punish the counterfeiting of trade-mark goods and the sale or dealing in of counterfeit trade-mark goods.

Aug. 14, 1876.  
Sup. to R. S.,  
vol. 1, p. 241.

*Be it enacted, &c.* [Section 1], That every person who shall, with intent to defraud, deal in or sell, or keep or offer for sale, or cause or procure the sale of, any goods of substantially the same descriptive properties as those referred to in the registration of any trade-mark, pursuant to the statutes of the United States, to which, or to the package in which the same are put up, is fraudulently affixed said trade-mark, or any colorable imitation thereof, calculated to deceive the public, knowing the same to be counterfeit or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, or imprisonment not more than two years, or both such fine and imprisonment.

Penalty for selling or offering for sale goods bearing a fraudulent trade-mark.  
R. S., ss. 4937-4947.

March 3, 1881,  
chap. 138.  
100 U. S., 82.  
16 Opin. Att'y Gen'l, 586.

SEC. 2. That every person who fraudulently affixes, or causes or procures to be fraudulently affixed, any trade-mark registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, to any goods, of substantially the same descriptive properties as those referred to in said registration, or to the package in which they are put up, knowing the same to be counterfeit, or not the genuine goods, referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Penalty for affixing fraudulent trade-mark.

SEC. 3. That every person who fraudulently fills, or causes or procures to be fraudulently filled, any package to which is affixed any trade-mark, registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, with any goods of substantially the same descriptive properties as those referred to in said registration, knowing the same to be counterfeit, or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Penalty for putting up packages bearing fraudulent trade-mark.

SEC. 4. That any person or persons who shall, with intent to defraud any person or persons, knowingly and willfully cast, engrave, or manufacture, or have in his, her, or their possession, or buy, sell, offer for sale, or deal in, any die or dies, plate or plates, brand or brands, engraving or engravings, on wood, stone, metal, or other substance, moulds, or any false representation, likeness, copy, or colorable imitation of any die, plate, brand, engraving, or mould of any pri-

Manufacturing fraudulent trade-mark.

vate label, brand, stamp, wrapper, engraving on paper or other substance, or trade-mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

Dealing in  
fraudulent trade-  
mark.

SEC. 5. That any person or persons who shall, with intent to defraud any person or persons, knowingly and willfully make, forge, or counterfeit, or have in his, her, or their possession, or buy, sell, offer for sale, or deal in, any representation, likeness, similitude, copy, or colorable imitation of any private label, brand, stamp, wrapper, engraving, mould, or trade-mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

Possession of  
empty box or  
package having  
registered trade-  
mark with intent  
to defraud.

SEC. 6. That any person who shall, with intent to injure or defraud the owner of any trade-mark, or any other person lawfully entitled to use or protect the same, buy, sell, offer for sale, deal in or have in his possession any used or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed, so that the same may be obliterated without substantial injury to such box or other thing aforesaid, any trade-mark, registered pursuant to the statutes of the United States, not so defaced, erased, obliterated, and destroyed as to prevent its fraudulent use, shall, on conviction thereof, be punished as prescribed in the first section of this act.

Proceedings to  
detect fraudulent  
trade-mark.

SEC. 7. That if the owner of any trade-mark, registered pursuant to the statutes of the United States, or his agent, make oath, in writing, that he has reason to believe, and does believe, that any counterfeit dies, plates, brands, engravings, on wood, stone, metal, or other substance, or moulds of his said registered trade-mark, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, or make such oaths that any counterfeits or colorable imitations of his said trade-mark, label, brand, stamp, wrapper, engravings on paper or other substance, or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed said registered trade-mark not so defaced, erased, obliterated, and destroyed as to prevent its fraudulent use, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, then the several judges of the circuit and district courts of the United States, and the Commissioners of the circuit courts may, within their respective jurisdictions, proceed under the law relating to search-warrants, and may issue a search-warrant authorizing and directing the marshal of the United States for the proper dis-

Jurisdiction of  
United States  
courts.

trict to search for and seize all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, and said counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper, or other substance, and said empty boxes, envelopes, wrappers, cases, bottles, or other packages that can be found; and upon satisfactory proof being made that said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles, or other packages, are to be used by the holder or owner for the purposes of deception and fraud, that any of said judges shall have full power to order all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings, on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles, or other packages, to be publicly destroyed.

SEC. 8. That any person who shall, with intent to defraud any person or persons, knowingly and willfully aid or abet in the violation of any of the provisions of this act, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not more than one year, or both such fine and imprisonment.

Penalty for  
abetting viola-  
tion of preceding  
sections.

Approved August 14, 1876.

AN ACT to authorize the registration of trade-marks and protect the same. Mch. 3, 1881.  
21 Stat. L., 502.

*Be it enacted, &c.* [Section 1], That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

Registration of  
trade-marks.

R. S., ss. 4937-  
4947, 1876, Aug.  
14, Ch. 274.

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party applying; the class of merchandise, and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is

applied and affixed to goods, and the length of time during which the trade-mark has been used.

Fees.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

Declaration under oath.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

Registry and recording.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the

Commissioner of Patents to decide on claims to trade-marks.

Commissioner of Patents shall decide the presumptive lawfulness or claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

Certificates of registry; how issued.

Copies of, &c., to be evidence in suits.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith

and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

SEC. 5. That a certificate of registry shall remain in force for thirty years from this date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms and for a like period.

Duration of protection and renewal.

SEC. 6. That applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid in the Treasury of the United States with intent to procure protection for the same trade-mark.

Credit for fee previously paid.

SEC. 7. That registration of a trade-mark shall be *prima facie* evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

Registration *prima facie* evidence of ownership.

Counterfeiting, &c.; how punished.

Jurisdiction of courts.

SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

Restrictions upon actions for infringement.

SEC. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in

Fraudulent trade-marks.



consequence thereof to the injured party, to be recovered in an action on the case.

Former rights  
and remedies pre-  
served.

SEC. 10. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

Saving as to  
rights after ex-  
piration of term.

SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade-mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in any action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

Regulations  
for transfer of  
rights.

SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

Trade-mark for  
foreign countries  
may be regis-  
tered here.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country the laws of which require registration here as a condition precedent to getting such protection there may register their trade marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent-Office.

[March 3, 1881.]

August 5, 1882.

AN ACT relating to the registration of trade-marks.

22 Stat., 298.

Registration of  
trade-marks.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That nothing contained in the law entitled "An act to authorize the registration of trade-marks and protect the same," approved March third, eighteen hundred and eighty-one, shall prevent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

Approved August 5, 1882.

22 Stat., 490.

Prohibition  
upon importa-  
tion of simulated  
watches, move-  
ments, etc.

SECTION 2496. No watches, watch-cases, watch-movements, or parts of watch-movements, or any other articles of foreign manufacture, which shall copy or simulate the name or trade-mark of any domestic manufacture, [manufacturer,] shall be admitted to entry at the custom-house of the United States, unless such domestic manufacturer is the importer of the same. And in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer who has adopted trade-marks may require

R. S. 2496, 458.

his name and residence and a description of his trade-marks to be recorded in books which shall be kept for that purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department *fac similes* of such trade-marks; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs.

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UNITED STATES STATUTES

CONCERNING THE

**PROTECTION AND REGISTRATION OF TRADE-MARKS AND LABELS,**

WITH THE

RULES OF THE PATENT OFFICE RELATING THERETO.

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EDITION OF NOVEMBER 1, 1886.

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## TRADE-MARKS.

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### AN ACT TO AUTHORIZE THE REGISTRATION OF TRADE-MARKS AND PROTECT THE SAME.

*Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,* That owners of trade-marks used in commerce with foreign nations or with the Indian tribes, provided such owners shall be domiciled in the United States or located in any foreign country or tribes, which, by treaty, convention, or law, affords similar privileges to citizens of the United States, may obtain registration of such trade-marks by complying with the following requirements:

First. By causing to be recorded in the Patent Office a statement specifying name, domicile, location, and citizenship of the party applying; the class of merchandise, and the particular description of goods comprised in such class to which the particular trade-mark has been appropriated; a description of the trade-mark itself, with fac-similes thereof, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used.

Second. By paying into the Treasury of the United States the sum of twenty-five dollars, and complying with such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section must, in order to create any right whatever in favor of the party filing it, be accompanied by a written declaration verified by the person, or by a member of a firm, or by an officer of a corporation applying, to the effect that such party has at the time a right to the use of the trade-mark sought to be registered, and that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce with foreign nations or Indian tribes, as above indicated; and that the description and fac-similes presented for registry truly represent the trade-mark sought to be registered.

SEC. 3. That the time of the receipt of any such application shall be noted and recorded. But no alleged trade-mark shall be registered

unless the same appear to be lawfully used as such by the applicant in foreign commerce or commerce with Indian tribes, as above mentioned, or is within the provision of a treaty, convention, or declaration with a foreign power; nor which is merely the name of the applicant; nor which is identical with a registered or known trade-mark owned by another, and appropriate to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers. In an application for registration the Commissioner of Patents shall decide the presumptive lawfulness of claim to the alleged trade-mark; and in any dispute between an applicant and a previous registrant, or between applicants, he shall follow, so far as the same may be applicable, the practice of courts of equity of the United States in analogous cases.

SEC. 4. That certificates of registry of trade-marks shall be issued in the name of the United States of America, under the seal of the Department of the Interior, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the specifications, shall be kept in books for that purpose. Copies of trade-marks and of statements and declarations filed therewith, and certificates of registry so signed and sealed shall be evidence in any suit in which such trade-marks shall be brought in controversy.

SEC. 5. That a certificate of registry shall remain in force for thirty years from its date, except in cases where the trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of a foreign country for a shorter period, in which case it shall cease to have any force in this country by virtue of this act at the time that such trade-mark ceases to be exclusive property elsewhere. At any time during the six months prior to the expiration of the term of thirty years such registration may be renewed on the same terms and for a like period.

SEC. 6. That applicants for registration under this act shall be credited for any fee or part of a fee heretofore paid into the Treasury of the United States with intent to procure protection for the same trade-mark.

SEC. 7. That registration of a trade-mark shall be *prima facie* evidence of ownership. Any person who shall reproduce, counterfeit, copy, or colorably imitate any trade-mark registered under this act and affix the same to merchandise of substantially the same descriptive properties as those described in the registration shall be liable to an action on the case for damages for the wrongful use of said trade-mark at the suit of the owner thereof; and the party aggrieved shall also have his remedy according to the course of equity to enjoin the wrongful use of such trade-mark used in foreign commerce or commerce with Indian tribes, as aforesaid, and to recover compensation therefor in any court having



jurisdiction over the person guilty of such wrongful act; and courts of the United States shall have original and appellate jurisdiction in such cases without regard to the amount in controversy.

SEC. 8. That no action or suit shall be maintained under the provisions of this act in any case when the trade-mark is used in any unlawful business or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or under any certificate of registry fraudulently obtained.

SEC. 9. That any person who shall procure the registry of a trade-mark, or of himself as the owner of a trade-mark, or an entry respecting a trade-mark, in the office of the Commissioner of Patents, by a false or fraudulent representation or declaration, orally or in writing, or by any fraudulent means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered in an action on the case.

SEC. 10. That nothing in this act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this act had not been passed.

SEC. 11. That nothing in this act shall be construed as unfavorably affecting a claim to a trade-mark after the term of registration shall have expired; nor to give cognizance to any court of the United States in an action or suit between citizens of the same State, unless the trade-mark in controversy is used on goods intended to be transported to a foreign country, or in lawful commercial intercourse with an Indian tribe.

SEC. 12. That the Commissioner of Patents is authorized to make rules and regulations and prescribe forms for the transfer of the right to use trade-marks and for recording such transfers in his office.

SEC. 13. That citizens and residents of this country wishing the protection of trade-marks in any foreign country the laws of which require registration here as a condition precedent to getting such protection there may register their trade-marks for that purpose as is above allowed to foreigners, and have certificate thereof from the Patent Office.

Approved March 3, 1881.

#### AN ACT RELATING TO THE REGISTRATION OF TRADE-MARKS.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That nothing contained in the law entitled "An act to authorize the registration of trade-marks and protect the same," approved March third, eighteen hundred and eighty-one, shall prevent the registry of any lawful trade-mark rightfully used by the applicant in foreign commerce or commerce with Indian tribes at the time of the passage of said act.

Approved August 5, 1882.

AN ACT TO PUNISH THE COUNTERFEITING OF TRADE-MARK GOODS AND THE SALE  
OR DEALING IN OF COUNTERFEIT TRADE-MARK GOODS.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That every person who shall, with intent to defraud, deal in or sell, or keep or offer for sale, or cause or procure the sale of, any goods of substantially the same descriptive properties as those referred to in the registration of any trade-mark, pursuant to the statutes of the United States, to which, or to the package in which the same are put up, is fraudulently affixed said trade-mark, or any colorable imitation thereof, calculated to deceive the public, knowing the same to be counterfeit or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished by fine not exceeding one thousand dollars, or imprisonment not more than two years, or both such fine and imprisonment.

SEC. 2. That every person who fraudently affixes, or causes or procures to be fraudulently affixed, any trade-mark registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, to any goods, of substantially the same descriptive properties as those referred to in said registration, or to the package in which they are put up, knowing the same to be counterfeit, or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 3. That every person who fraudently fills, or causes or procures to be fraudulently filled, any package to which is affixed any trade-mark, registered pursuant to the statutes of the United States, or any colorable imitation thereof, calculated to deceive the public, with any goods of substantially the same descriptive properties as those referred to in said registration, knowing the same to be counterfeit, or not the genuine goods referred to in said registration, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 4. That any person or persons who shall, with intent to defraud any person or persons, knowingly and willfully cast, engrave, or manufacture, or have in his, her, or their possession, or buy, sell, or offer for sale, or deal in, any die or dies, plate or plates, brand or brands, engraving or engravings, on wood, stone, metal, or other substance, moulds, or any false representation, likeness, copy, or colorable imitation of any die, plate, brand, engraving, or mould of any private label, brand, stamp, wrapper, engraving on paper or other substance, or trade-mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

SEC. 5. That any person or persons who shall, with intent to defraud any person or persons, knowingly and wilfully make, forge, or counterfeit, or have in his, her, or their possession, or buy, sell, offer for sale, or deal in, any representation, likeness, similitude, copy, or colorable

imitation of any private label, brand stamp, wrapper, engraving, mould, or trade mark, registered pursuant to the statutes of the United States, shall, upon conviction thereof, be punished as prescribed in the first section of this act.

SEC. 6. That any person who shall, with intent to injure or defraud the owner of any trade-mark, or any other person lawfully entitled to use or protect the same, buy, sell, offer for sale, deal in or have in his possession any used or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed, so that the same may be obliterated without substantial injury to such box or other thing aforesaid, any trade-mark, registered pursuant to the statutes of the United States, not so defaced, erased, obliterated, and destroyed so as to prevent its fraudulent use, shall, on conviction thereof, be punished as prescribed in the first section of this act.

SEC. 7. That if the owner of any trade-mark, registered pursuant to the statutes of the United States, or his agent, make oath, in writing, that he has reason to believe, and does believe, that any counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, or moulds of his said registered trade-mark, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, or makes such oaths that any counterfeits or colorable imitations of his said trade-mark, label, brand, stamp, wrapper, engraving on paper or other substance, or empty box, envelope, wrapper, case, bottle, or other package, to which is affixed said registered trade-mark not so defaced, erased, obliterated, and destroyed as to prevent its fraudulent use, are in the possession of any person, with intent to use the same for the purpose of deception and fraud, then the several judges of the circuit and district courts of the United States and the commissioners of the circuit courts may, within their respective jurisdictions, proceed under the law relating to search-warrants, and may issue a search-warrant authorizing and directing the marshal of the United States for the proper district to search for and seize all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, and said counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper, or other substances, and said empty boxes, envelopes, wrappers, cases, bottles, or other packages that can be found; and upon satisfactory proof being made that said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks, colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles, or other packages, are to be used by the holder or owner for the purposes of deception and fraud, that any of said judges shall have full power to order all said counterfeit dies, plates, brands, engravings on wood, stone, metal, or other substance, moulds, counterfeit trade-marks,

colorable imitations thereof, labels, brands, stamps, wrappers, engravings on paper or other substance, empty boxes, envelopes, wrappers, cases, bottles or other packages, to be publicly destroyed.

SEC. 8. That any person who shall, with intent to defraud any person or persons, knowingly and willfully aid or abet in the violation of any of the provisions of this act, shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not more than one year, or both such fine and imprisonment.

Approved August 14, 1876.

RULES AND FORMS ADOPTED BY THE UNITED STATES PATENT  
OFFICE FOR THE REGISTRATION OF TRADE-MARKS UNDER  
THE ACT OF MARCH 3, 1881.

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UNITED STATES PATENT OFFICE,  
*Washington, D. C., December 17, 1884.*

The following regulations, designed to be in strict accordance with the provisions of the act of March 3, 1881, for the registration of trade-marks, are published for gratuitous distribution.

Applicants for registration and their attorneys are advised that their business will be facilitated by the observance as closely as possible of the appended forms.

BENJ. BUTTERWORTH,  
*Commissioner of Patents.*

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WHO MAY OBTAIN REGISTRATION.

1. (a.) Any person, firm, or corporation domiciled in the United States or located in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States,\* and who is entitled to the exclusive use of any trade-mark and uses the same in commerce with foreign nations or with Indian tribes.

(b.) Any citizen or resident of this country wishing the protection of his trade-mark in any foreign country the laws of which require registration in the United States as a condition precedent.

STATUTORY REQUIREMENTS.

2. Every applicant for registration of a trade-mark must cause to be recorded in the Patent Office—

(a.) The name, domicile, and place of business or location of the firm or corporation desiring the protection of the trade-mark, and the residence and citizenship of individual applicants.

(b.) The class of merchandise and the particular description of goods comprised in such class to which the trade-mark has been appropriated.

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\*For a list of the countries having treaties with the United States at this time see page 24.



(c.) A description of the trade-mark itself, with fac-similes thereof, and the mode in which it has been applied and used.

(d.) The length of time during which the trade-mark has been used by the applicant on the class of goods described.

3. A fee of twenty-five dollars is required on filing each application, except in the cases hereinafter named. (See pars. 17 and 18.)

#### THE APPLICATION.

4. An application for the registration of a trade-mark will consist of a statement or specification, a declaration or oath, and the fac-simile, with duplicates thereof. The statement and declaration should be written on one side of the paper only.

5. These should be preceded by a brief letter of advice requesting registration and signed by the applicant.

6. The statement should announce the full name, citizenship, domicile, residence, and place of business of the applicant (or, if the applicant be a corporation, under the laws of what State or nation incorporated), with a full and clear specification of the trade-mark, particularly discriminating between its essential and non essential features. It should also state from what time the trade-mark has been used by the applicant, the class of merchandise, and the particular goods comprised in such class to which the trade-mark is appropriated, and the manner in which the trade-mark has been applied to the goods. (See form, p.16.)

7. The declaration should be in the form of an oath by the person, or by a member of the firm, or by an officer of the corporation making the application, to the effect that the party has at the time of filing his application a right to the use of the trade-mark described in the statement; that no other person, firm, or corporation has a right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in lawful commerce with foreign nations or Indian tribes, one or more of which should be particularly named; and that it is truly represented in the fac simile presented for registry. (See form, p. 18.)

8. This oath may be taken within the United States before a notary public, justice of the peace, or the judge or clerk of any court of record. In any foreign country it may be taken before the secretary of a legation or consular officer of the United States, or before any person duly qualified by the laws of the country to administer oaths, whose official character shall be certified by a representative of the United States having an official seal.\*

#### FAC-SIMILES TO BE FILED.

9. Where the trade-mark can be represented by a fac-simile which conforms to the rules for drawings of mechanical patents,† such a

\* See Appendix, Rule 46.

† See Appendix, Rule 50.



drawing may be furnished by applicant, and the additional copies will be produced by the photolithographic process at the expense of the office. Or the applicant may furnish one fac-simile of the trade-mark, mounted on a card ten by fifteen inches in size, and ten additional copies upon flexible paper, not mounted; but in all cases the sheet containing the mounted fac-simile or the drawing must be signed by the applicant or his authorized attorney, and authenticated by two witnesses.

#### PROCEEDINGS IN THE OFFICE.

10. All applications for registration are considered in the first instance by the trade-mark examiner. An adverse decision by such examiner upon the applicant's right to registration will be reviewed by the Commissioner in person upon petition without fee.

11. No trade-mark will be registered unless it shall be made to appear that the same is used as such by the applicant in commerce between the United States and some foreign nation or Indian tribe, or is within the provisions of a treaty, convention, or declaration with a foreign power, nor which is merely the name of the applicant, nor which is identical with a known or registered trade-mark owned by another and appropriated to the same class of merchandise, or which so nearly resembles some other person's lawful trade-mark as to be likely to cause confusion in the mind of the public or to deceive purchasers.

12. The statement may be amended to correct informalities or to avoid objections made by the office, or for other reasons arising in the course of examination; but no amendments will be admitted unless warranted by something in the statement or fac-simile as originally filed. In respect to amendments the established rules in regard to applications for patents will be observed.\* The declaration cannot be amended. If that filed with the application is faulty or defective, a substitute declaration may be filed.

13. In case of conflicting applications for registration, or in any dispute as to the right to use which may arise between an applicant and a prior registrant, the office will declare an interference, in order that the parties may have opportunity to prove priority of adoption or right; and the proceedings on such interference will follow, as nearly as practicable, the practice in interferences upon applications for patents; but each applicant and registrant will be held to the date of adoption alleged in the statement filed with his application. On the petition of any party dissatisfied with the decision of the examiner of interferences the case will be reviewed by the Commissioner without fee.

14. When these requirements have been complied with, and the office has adjudged the trade-mark lawfully registrable, a certificate will be issued by the Commissioner, under seal of the Interior Department, to the

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\* See Appendix, par. 71, *et seq.*

effect that applicant has complied with the law, and that he is entitled to the protection of his trade-mark in such case made and provided. Attached to the certificate will be a fac-simile of the trade-mark and a printed copy of the statement and declaration.

15. The protection for such trade-mark will remain in force for thirty years, and may, upon the payment of a second fee, be renewed for thirty years longer, except in cases where such trade-mark is claimed for and applied to articles not manufactured in this country, and in which it receives protection under the laws of any foreign country for a shorter period, in which case it will cease to have force in this country, by virtue of the registration, at the same time that the trade-mark ceases to be exclusive property elsewhere.

16. The right to the use of any trade-mark is assignable by an instrument in writing, and such assignment of a registered trade-mark must be recorded in the Patent Office within sixty days after its execution, in default of which it may be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice. No particular form of assignment or conveyance is prescribed, but the trade-mark must be identified by the certificate number.

17. Owners of trade-marks for which protection has been sought by registering them in the Patent Office under the act of July 8, 1870 (declared unconstitutional by the Supreme Court of the United States), may register the same for the same goods, without fee, on compliance with the foregoing requirements. With each application of this character a specific reference to the date and number of the former certificate is required.

18. Applicants whose cases were filed under the act of 1870, either prior to or since the decision of the Supreme Court declaring it unconstitutional, which are now pending before the office, are advised to prepare applications in conformity with the law and foregoing rules. On the receipt of such an application, referring to the date of the one formerly filed, all fees paid thereon will be duly applied. Those who have paid only \$10 as a first fee are advised that the law does not provide for a division of the legal fee of \$25, and that the remainder of the entire fee is required before the application can be entertained.

#### COPIES AND PUBLICATIONS.

19. Printed copies of the statement and declaration in each case, with a duplicate of the trade-mark, can be furnished by the office.

The Official Gazette of the Patent Office, published weekly, will contain a list of all trade-marks registered, with the name and address of the registrant, a brief statement of the essential features of the trade-mark, and the particular description of goods to which it is applied.

## FEES.

20. On filing an application for registration of a trade-mark...	\$25 00
For abstracts of title:	
For the certificate of search.....	1 00
For each brief from the digests of assignments .....	20
For copies of matter in any foreign language, for every one hundred words or fraction thereof.....	20
For translation, for every one hundred words or fraction thereof.	50
For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under .....	1 00
For recording every assignment, agreement, power of attorney, or other paper of over three hundred words and under one thousand words.....	2 00
For recording every assignment, agreement, power of attorney, or other paper of over one thousand words.....	3 00
For assistance to attorneys, and others in the examination of records, one hour or less.....	50
Each additional hour or fraction thereof .....	50
For single printed copy of statement and declaration .....	25
Single copy of Official Gazette .....	10
Annual subscription Official Gazette .....	5 00

## CORRESPONDENCE.

21. All letters should be addressed to "The Commissioner of Patents"; and all remittances by postal order, check, or draft should be to his order.

22. Letters relating to pending applications should refer to the name of the applicant and date of filing. Letters relating to registered trade-marks must refer to the name of registrant, number or date of certificate, and the class of merchandise to which the trade-mark is applied.

23. The office cannot undertake to respond to inquiries propounded with a view to ascertain whether certain trade marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed. A copy of these rules with this paragraph marked will be regarded as a courteous answer to all such inquiries.

## FORMS.

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The following forms illustrate the manner of preparing papers for applications for registration of trade-marks. Their use is not absolutely required, but as they have been made to conform to the conditions of the law, applicants will find their business facilitated by following them closely :

### (1.) LETTER OF ADVICE.

*To the Commissioner of Patents :*

The undersigned presents herewith a fac-simile of his lawful trade-mark and requests that the same, together with the accompanying statement and declaration, may be registered in the United States Patent Office in accordance with the law in such cases made and provided.

A. B.

### (2.) STATEMENT BY AN INDIVIDUAL.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States, residing at Baltimore, Maryland, and doing business at No. — — st., in said city, have adopted for my use a trade-mark for whisky, of which the following is a full, clear, and exact specification :

My trade-mark consists of the word-symbol Moonshine. This has generally been arranged as shown in the accompanying fac-simile, which represents a rude still-house surrounded by hills and forests. Three men are engaged variously about, and the scene is illuminated partly by the light of the fire, partly by the moon which appears in the heavens. Underneath the picture appears the word "moonshine" in ornamental letters; but the style of lettering is unimportant, and the entire picture may be omitted or changed at pleasure without materially affecting the character of my trade-mark, the essential feature of which is the word-symbol Moonshine.

This trade-mark I have used continuously in my business since July 4, 1876. The class of merchandise to which this trade-mark is appropriated is distilled liquors, and the particular description of goods comprised in said class upon which I use it is whisky. It is my practice to apply my trade-mark to the bottles containing the liquor by means of suitable labels, on which it is printed in color, as above described. The word is sometimes also blown into the bottles.

A. B.

Witnesses:

C. D.

E. F.

## (3.) STATEMENT BY A FIRM.

*To all whom it may concern :*

Be it known that we, C. D. & Co., a firm domiciled in Brooklyn, Kings County, State of New York, and doing business at No. ——— st., in said city, have adopted for our use a trade-mark for men's overalls, of which the following is a full, clear, and exact specification :

Our trade-mark consists of the arbitrary word Toulon. This has generally been arranged as shown in the accompanying fac-simile, in which it appears in plain, block capitals, printed in black in a horizontal line. But other forms of type may be employed, or it may be differently arranged or colored, without materially altering the character of our trade-mark, the essential feature of which is the word Toulon.

This trade-mark has been used continuously in business by us and those from whom we derive our title since July 11, 1840.

The class of merchandise to which this trade-mark is appropriated is wearing-apparel, and the particular description of goods comprised in such class on which it is used by us is men's overalls. It has been our practice to mark our trade-mark on the inside of the waistband of the goods with a stencil, or to print it upon tags which are secured to the goods in any desired manner.

C. D. & CO.

Witnesses:

D. E.

F. G.

## (4.) STATEMENT BY A CORPORATION.

*To all whom it may concern :*

Be it known that the Rocky Mountain Mill Company, a corporation organized under the laws of the Territory of Dakota, and located in the city of Garfield, Hancock County, in said Territory, and doing business in said city of Garfield, and also at Chicago, Illinois, has adopted for its use a trade-mark for wheat flour, of which the following is a full, clear, and exact specification :

The trade-mark of said company consists of a representation of a Rocky Mountain sheep and the words Big Horn. These have generally been arranged as shown in the accompanying fac-simile, in which the animal named, popularly known as the "Big Horn," is represented in an erect attitude upon a cliff or rock. In the back ground are mountains covered with forests, with distant white peaks; upon the sky portion are the words Big Horn, and arranged in a circle about the whole are the words Rocky Mountain Mill Company in plain capital letters. But these words may be omitted, and the various accessories of the picture may be varied at pleasure or altogether omitted, without materially altering the character of the said trade-mark, the essential features of which are the words Big Horn and the representation of a Rocky Mountain sheep.

This trade-mark has been continuously used by said corporation since about the middle of October, 1884.

The class of merchandise to which this trade-mark is appropriated is flour, and the particular description of goods comprised in such class on



which it is used by the said company is wheat flour. It is usually affixed to the goods by printing it on the bags, or stenciling it on the heads of barrels in which the flour is packed.

ROCKY MOUNTAIN MILL COMPANY,  
By G. F., *President*.

Witnesses:\*

J. H.

L. K.

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(5.) DECLARATION.

STATE OF ———, COUNTY OF ———, ss:

A. B., being duly sworn, deposes and says that he is the applicant named in the foregoing statement; that he verily believes that the foregoing statement is true; that he has at this time a right to the use of the trade-mark therein described; that no other person, firm, or corporation has the right to such use, either in the identical form or in any such near resemblance thereto as might be calculated to deceive; that it is used by him in commerce between the United States and foreign nations or Indian tribes, and particularly with ——— (*here name one or more foreign nations or Indian tribes, or both, as the case may be*); and that the description and fac-similes presented for record truly represent the trade-mark sought to be registered.

A. B.

Sworn and subscribed before me, a ———, this ——— day of ———, 18—.

G. H., *J. P.*

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If the application is made by a firm or corporation, this declaration should be modified accordingly. Thus—

FOR A FIRM.

A. B., being duly sworn, deposes and says that he is a member of the firm, the applicant named, etc., etc., \* \* \* that the trade-mark is used by the said firm in commerce, etc., etc.

FOR A CORPORATION.

A. B., being duly sworn, deposes and says that he is secretary (*or other officer*) of the corporation, the applicant named in the foregoing statement, etc., etc., \* \* \* that the trade-mark is used by said corporation in commerce, etc., etc.

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\* If the corporation have a seal it may be used to authenticate the signature of the officer.



## (6.) AMENDMENT.

*To the Commissioner of Patents :*

In the matter of my application for registration of trade-mark for watches, No. 5319, filed June 11, 1876, I desire to amend my statement as follows :

Page 1, line 16, cancel the words "the arbitrary word Zenith," and insert in the place thereof the following: *the representation of a five-pointed star, having the word Zenith printed across its face.*

Same page, line 20, erase "about four years" and insert *since July 1st, 1872.*

A. B.,  
By P. & Q.,  
*His attorneys.*

Dated GENEVA, SWITZERLAND, *October 1, 1876.*

## CIRCULAR.

### TRADE-MARKS.

[1883. Department No. 57. Secretary's Office.]

TREASURY DEPARTMENT,  
Washington, D. C., May 15, 1883.

*To collectors of customs and others :*

The attention of customs officers is invited to the following section of law, embodied in the act approved March 3, 1883, viz:

"SECTION 2496. No watches, watch cases, watch-movements, or parts of watch-movements, *or any other articles* of foreign manufacture, which shall copy or simulate the name or trade-mark of any domestic manufacture, [manufacturer,] shall be admitted to entry at the custom-house of the United States, unless such domestic manufacturer is the importer of the same. And in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer who has adopted trade-marks may require his name and residence and a description of his trade-marks, to be recorded in books which shall be kept for that purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department *fac similes* of such trade-marks; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of the customs."

Applications for the recording of names or trade-marks in this Department will mention the name and residence of the domestic manufacturer, and furnish a description of the mark. No such name will be received unless recorded in the Patent Office, as mentioned in Chapter 2, Title LX, Revised Statutes; and the fact must be shown by the production of a copy of the mark, certified by the Commissioner of Patents, under the seal of the Patent Office, in the manner set forth in said chapter, and also of the necessary *fac-similes*, under the seal of the Patent Office, to be forwarded to collectors of customs.

On the receipt by a customs officer of any such *fac-similes*, with information from the Department that they have been recorded therein, he will properly record and file them, and will exercise care to prevent the entry at the custom-house of any article of foreign manufacture copying or simulating such mark, not imported by the owner of such name or trade-mark.

H. F. FRENCH,  
*Acting Secretary.*

## REGISTRATION OF PRINTS AND LABELS.

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Sections 3, 4, and 5 of the act of Congress relating to patents, trademarks, and copyrights, approved June 18, 1874 (18 Statutes at Large, p. 78), are as follows:

SEC. 3. That in the construction of this act the words "engraving, cut, and print" shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright and prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.

SEC. 4. That all laws and parts of laws inconsistent with the foregoing provisions be and the same are hereby repealed.

SEC. 5. That this act shall take effect on and after the first day of August, eighteen hundred and seventy-four.

The words "prints" and "labels" as used in this act, so far as it relates to registration in the Patent Office, are construed as synonymous, and are defined as any device, picture, word or words, figure or figures (not a trade-mark) impressed or stamped directly upon the articles of manufacture, or upon a slip or piece of paper, or other material, to be attached in any manner to manufactured articles, or to bottles, boxes, and packages containing them, to indicate the contents of the package, the name of the manufacturer or the place of manufacture, the quality of goods, directions for use, &c.

By the words "articles of manufacture" (to which such print or label is applicable by this act) is meant all vendible commodities produced by hand, machinery, or art.

But no such print or label can be registered unless it properly belongs to an article of commerce, and be as above defined; nor can the same be registered as such print or label when it amounts to a lawful trade-mark, or when its use in connection with the article to which it is applied is arbitrary or fanciful.

To entitle the owner of any such print or label to register the same in this office, it is necessary that five copies of the same be filed, one of which copies shall be certified under the seal of the Commissioner of Patents, and returned to the registrant.

The certificate of such registration will continue in force for twenty-eight years.

It has been held in a United States circuit court that the use of a label in the sale of the merchandise it is intended to designate prior to the deposit of such label in the Patent Office, amounts to a publication thereof (*Marsh et al. v. Warren et al.*, XIV O. G., 678). Since in the same decision the court held that in a suit for infringement of a registered label the bill must aver that the title and label were deposited before publication, it is evident that any such use will vitiate a registration subsequently effected.

The fee for registration of a print or label is six dollars, to be paid in the same manner as fees for patents.

The benefits of this act seem to have been originally confined to citizens or residents of the United States; but are extended by existing treaties to British, German, Italian, and Belgian subjects.

It is held that a registered label is, like a copyright, assignable by an instrument in writing. And such an instrument will be recorded in the Patent Office. Such assignment should be presented for record within sixty days of its execution, otherwise it is liable to be held void as against any subsequent purchaser or mortgagee for a valuable consideration without notice.

#### FORM OF APPLICATION FOR REGISTRATION OF PRINTS AND LABELS.

[Making necessary changes to suit each case.]

*For an individual.*

*To the Commissioner of Patents:*

The undersigned, A. B., of the city of Brooklyn, county of Kings, and State of New York, and a citizen of the United States (or resident therein, as the case may be), hereby furnishes five copies of a label (or print, as the case may be), to be used for ———, of which he is the sole proprietor. The title of said label (or print) is ———, and the said label (or print) consists of the words and figures as follows, to wit: ——— (Description).

And he hereby requests that the said print (or label) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

\_\_\_\_\_  
*Proprietor.*

BROOKLYN, N. Y., August 1, 1874.

*For a corporation.*

*To the Commissioner of Patents:*

The applicant, a corporation created by authority of the laws of the State of New York (or other authority, as the case may be), and doing business at ———, in said State, hereby furnishes five copies of a label (or print, as the case may be), to be used for ———, of which it is the

sole proprietor. The title of said print (or label) is ———, and the said label consists of the words and figures as follows, to wit: ——— (Description.)

And it is hereby requested that the said label (or print) be registered in the Patent Office, in accordance with the act of Congress to that effect, approved June 18, 1874.

[L. S.] Witness the seal of said corporation at ———, ———, 1874.

—————, —————,  
*President [or other officer].*

#### NOTE.

The registration of copyright matter is, by law, under the control of the Librarian of Congress at Washington. At the time of the enactment of the trade-mark law of July 8, 1870, it was the custom of the Librarian of Congress to enter, under the provisions of the copyright law, labels and prints of commerce, many of which embraced legal trade-marks. Notwithstanding the existence of a separate statute in 1870 for the registration of trade-marks, the Librarian of Congress, in entering labels and prints of commerce, gave a semblance of protection to many trade-marks, of which the labels and prints entered by him were the mere vehicles. To remedy this difficulty was the object of the amendment to the copyright law of June 18, 1874, referred to herein as the act for the registration of prints and labels. By this amendatory act the Librarian of Congress is restricted, in the registry of copyright matter, to pictorial illustrations or works connected with the fine arts, and is prohibited from registering labels or prints designed to be used for any other articles of manufacture, *i. e.*, articles of commerce. These are now registrable at the Patent Office; while matter properly coming within the definition of copyright subject-matter, as contained in the act of June 18, 1874, is registrable at the office of the Librarian of Congress.

## TRADE-MARK TREATIES WITH FOREIGN NATIONS.

The following is a list of the Governments with which conventions for the reciprocal registration and protection of trade-marks have been entered into by the United States, with the dates of the respective conventions. For the full text of those which have been published in the Official Gazette reference is made thereto. For others, to the volume and page of United States Statutes at Large. The laws of Switzerland and the Netherlands being so framed as to afford reciprocal privileges to the citizens or subjects of any Government which affords similar privileges to the people of those countries, the mere exchange of diplomatic notes, giving notice of the fact, accomplishes all the purposes of a formal convention. The reference to the Official Gazette opposite these nations gives the full text of their trade-mark laws:

Country.	Date.	Reference.
Austria-Hungary .....	June 1, 1872	Stat., 17, p. 917
Belgium .....	July 30, 1869	Stat., 16, p. 765
Do .....	July 9, 1884	O. G., 29, p. 452
Brazil .....	Sept. 24, 1878	Stat., 21, p. 659
France .....	Apr. 16, 1869	Stat., 16, p. 771
German Empire .....	June 1, 1872	Stat., 17, p. 921
Great Britain .....	July 17, 1878	O. G., 14, p. 233
Italy .....	Mar. 19, 1884	O. G., 27, p. 304
Russia .....	June 27, 1868	Stat., 16, p. 725
Serbia .....	Dec. 27, 1882	Stat., 22, p. 966
Spain .....	Apr. 19, 1883	O. G., 25, p. 98
Switzerland .....	May 16, 1883	O. G., 23, p. 2237
The Netherlands .....	Feb. 16, 1883	O. G., 23, p. 1334

The declaration with Great Britain is drawn so as to confer mutual trade-mark rights upon the subjects and citizens of each of the contracting parties throughout the dominions and possessions of the other. Citizens or residents of British Colonies are therefore permitted to register their trade-marks under this treaty whenever it is satisfactorily shown that in the respective colonies similar protection is afforded to citizens of the United States.



## APPENDIX.

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The following extracts from the Rules of Practice of the Patent Office involve such matter as is general in its application, and to which reference has frequently to be made in actions upon trade-mark cases.

### CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers they will ordinarily be returned.

3. Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

4. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

7. When an attorney shall have filed his power of attorney duly executed, the correspondence will be held with him.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, cannot generally be allowed.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees, and orders for copies or abstracts must be sent to the office in separate letters.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock p. m., cannot ordinarily be answered until the following day.

### ATTORNEYS.

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant, upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will, in most cases, be of advantage to the applicant; but the value of their services will be proportionate to their skill and honesty, and too much care cannot be exercised in their selection. The office cannot assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be un-

safe to trust those who pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. No power of attorney purporting to have been given to a firm or copartnership will be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval of the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. Attorneys will be promptly notified by the examiner in charge of the case of the revocation of their powers of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given, but the assignee of the entire interest may be represented by an attorney of his own selection.

21. Parties or their attorneys will be permitted to examine their cases in the attorney's room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided.

22. Attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will ordinarily be returned. Complaints against examiners and other officers must be made in separate communications and will be promptly investigated. For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

23. Inasmuch as applications cannot be examined out of their regular order, except in accordance with the provisions of Rule 62, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon Senators or Representatives labor which will consume their time without any advantageous results.

#### OATHS.

46. Ext. \* \* \* When the person before whom the oath or affirmation is made is not provided with a seal his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(A certificate of the official character of a magistrate, stating date of appointment and term of office, may be filed in the Patent Office, which will obviate the necessity of separate certificates in individual cases.)

#### DRAWINGS.

(Extracts from Rule 50.)

(1.) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol board. The surface of the paper

must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines.

(2.) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downward from the marginal line, a space of not less than  $1\frac{1}{2}$  inches is to be left blank for the heading of title, name, number, and date.

(3.) All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

(7.) The signature of the inventor is to be placed at the lower right-hand corner of the sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line. (See specimen drawing, page 58, Rules of Practice.) The title is to be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

(9.) Drawings should be rolled for transmission to the office, not folded. No agent's or attorney's stamp, or advertisement, or written address, will be permitted upon the face of a drawing within or without the marginal line.

54. Applicants are advised to employ competent artists to make their drawings. The office will furnish the drawings at cost as promptly as its draftsmen can make them, for applicants who cannot otherwise conveniently procure them.

No employés of the Patent Office, except those regularly assigned to such duty, will make any drawings, whether copies or originals, for applicants, agents, or attorneys.

#### AMENDMENTS AND ACTIONS BY APPLICANTS.

71. After the completion of the application the office will not return the specification for any purpose whatever. The model or drawing (but not both at the same time) may be withdrawn for correction. If applicants have not preserved copies of such papers as they wish to amend, the office will furnish them on the usual terms.

72. All amendments of specifications or claims must be made on sheets of paper separate from the original. Even when the amendment consists in striking out a portion of the specification or of the claims, the same course must be observed. Erasures must not be made by the applicant. In every case of amendment the exact word or words to be stricken out or inserted must be clearly specified, and the precise point indicated where the erasure or insertion is to be made.

73. When an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the case is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying, the examiner or Commissioner may require the entire specification to be rewritten.

## HEARINGS AND INTERVIEWS.

146. Hearings will be had by the Commissioner at 10 o'clock a. m., and by the board of examiners-in-chief and the examiner of interferences at 1 o'clock p. m., on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time, he will be heard by the examiner of interferences or the examiners-in-chief; but a contested case will not be taken up for oral argument after the day of hearing, except by consent of both parties. If the engagements of the tribunal having jurisdiction of the case be such as to prevent it from being taken up on the day of hearing a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case; and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

147. Interviews with examiners concerning applications and other matters pending before the office must be had at such times, within office hours, as the respective examiners may designate, in the examiners' room, with the principal examiners, or, in their absence, with the assistants in charge. They will not be had at any other time or place without the written authority of the Commissioner.

148. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

## COPIES, FEES, ETC.

210. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

211. No person will be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

212. The money required for office fees may be paid to the Commissioner, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the Patent Office. When this cannot be done without much inconvenience, the money may be remitted by mail, and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Post-office money orders now afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

213. The weekly issue will close on Thursday, and the patents of that issue will bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday the patent will not go to issue until the following week.

214. All money sent by mail, either to or from the Patent Office, will be at the risk of the sender. In no case should money be sent inclosed

with models. All payments to or by the office must be made in specie, Treasury notes, national bank notes, certificates of deposit, or Post-Office money orders.

#### REPAYMENT OF MONEY.

215. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect, or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent, or for the registration of a trade-mark, or an appeal, will not entitle a party to demand such a return.

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#### CLASSIFICATION OF REGISTERED TRADE-MARKS.

1. Agricultural implements. (See Title 41, 73.)
2. Baking powder and yeast.
3. Beverages. (See Title 42.)
4. Blacking and leather dressing. (See Title 12.)
5. Boots, shoes, and lasts. (See Title 57.)
6. Brooms and brushes.
7. Buttons. (See Title 22.)
8. Canned goods. (See Title 16, 26.)
9. Carpets, &c.
10. Cement, plaster, and bricks.
11. Cigars and cigarettes. (See Title 71.)
12. Cleaning and polishing preparations. (See Title 4.)
13. Coffee and tea.
14. Confectionery.
15. Corsets. (See Title 75.)
16. Cured meats. (See Title 8, 26, 37.)
17. Cutlery and edge tools. (See Title 73, 68.)
18. Dairy products.
19. Dentistry.
20. Drugs and chemicals. (See Title 44, 53, 72.)
21. Dry goods. (See Title 22, 69.)
22. Fancy goods. (See Title 7, 21, 30, 47.)
23. Fertilizers.
24. Fire-arms, ammunition, and explosives.
25. Flour.
26. Food and relishes. (See Title 8, 16.)
27. Fuel.
28. Games and toys. (See Title 46.)
29. Glassware. (See Title 32, 55.)
30. Gloves. (See Title 22.)
31. Head-wear.
32. Household articles. (See Title 29, 35, 55.)
33. Inks. (See Title 65.)
34. Iron, steel, and manufactures. (See Title 41, 73.)
35. Jewelry and plated ware. (See Title 32, 70.)
36. Lamps, lanterns, &c. (See Title 29.)
37. Lard and tallow. (See Title 16.)
38. Laundry articles. (See Title 61, 64.)
39. Leather and saddlery.
40. Locks and hardware. (See Title 72, 73.)



41. Machines. (See Title 1, 34, 73.)
42. Malt liquors. (See Title 3.)
43. Matches.
44. Medical compounds. (See Title 20, 53, 72.)
45. Miscellaneous.
46. Musical instruments. (See Title 28.)
47. Needles and pins. (See Title 22.)
48. Oils and lubricants. (See Title 51.)
49. Optics and measuring instruments. (See Title 73.)
50. Packing. (Machinery.)
51. Paints and painters' supplies. (See Title 48.)
52. Paper and envelopes. (See Title 65.)
53. Poisons for animals. (See Title 20, 44.)
54. Publications.
55. Receptacles. (See Title 29, 32.)
56. Rope, cord, and twine. (See Title 59.)
57. Rubber goods. (See Title 5, 69.)
58. Sewing-machines and attachments. (See Title 41, 73.)
59. Sewing silk, cotton, and thread. (See Title 56.)
60. Shirts, collars, and cuffs. (See Title 75.)
61. Soap. (See Title 38, 72.)
62. Spices, mustard, and salt. (See Title 26.)
63. Spirituous liquors. (See Title 42, 77.)
64. Starch, corn-starch, and products. (See Title 26, 38.)
65. Stationery miscellany. (See Title 33, 52.)
66. Stoves and heaters.
67. Sugar, sirup, and molasses.
68. Surgical instruments and appliances. (See Title 17.)
69. Tailoring and clothing. (See Title 21, 57.)
70. Time-keeping instruments. (See Title 35.)
71. Tobacco and snuff. (See Title 11.)
72. Toilet articles and preparations. (See Title 20, 61.)
73. Tools and devices.
74. Umbrellas, parasols, and canes.
75. Underwear and furnishing. (See Title 15, 60.)
76. Vehicles.
77. Wines. (See Title 3, 42, 63.)



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RULES OF PRACTICE

IN THE

UNITED STATES PATENT OFFICE.

REVISED APRIL 18, 1888.

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General revision December 1, 1879, to take effect January 1, 1880.

First revised edition September 1, 1880, under which Rules 20, 30, 31, 89, par. (1) of 50, 55, 94, 101, 111, 116, 117, 118, 119, 120, 134, 144, 160, 171, and 209 were amended.

Second revised edition April 15, 1882, under which Rules 39, 46, 85, 86, 94, 124, and 171 were amended, and Forms 17 and 18 consolidated and amended as Form 17.

Third revised edition February 1, 1883, under which Rules 20, 26, 39, 47, and 59 were amended, and notes \* \* inserted at bottom of pages 9 and 17.

Fourth revised edition November 15, 1883, under which Rules 20, 26, and 165 were amended.

Fifth revised edition March 1, 1884, under which Rules 26, 62, and 209, and Form 37, were amended.

Sixth revised edition August 12, 1884, under which Rules 35, 67, 137, and 138 were amended.

Seventh revised edition March 3, 1885, under which Rules 53, 94, 97, 102, 104, 105, 106, 107, 116, 119, 126, 157, and 171 were amended.

Eighth revised edition November 16, 1885, under which Rules 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 45, 47, 86, 140, 144, and 145 were amended.

Ninth revised edition July 13, 1886, under which Rules 40, 67, 74, and 77 were amended.

Tenth revised edition March 9, 1887, under which Rule 171 and Form 21 were amended and Forms 19, 52, and 53 were inserted.



## GENERAL REVISION.

This edition of the Rules of Practice is a general revision of the last edition, March 9, 1887. The new rules introduced are 44; 2d and 3d paragraphs of 46; 2d par. of 77; 105; 2d par. of 111; 132; 157; 166; 228 and 229, and the changes in the numbering of the rules, which will be found in this edition in the marginal note opposite each rule, are as follows:

*Old and present numbers of rules which have been renumbered.*

Old No.	Present No.	Old No.	Present No.	Old No.	Present No.	Old No.	Present No.	Old No.	Present No.
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# RULES OF PRACTICE

## IN THE

# UNITED STATES PATENT OFFICE.

REVISED APRIL 18, 1888.

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The following regulations, designed to be in strict accordance with the Revised Statutes relating to the grant of patents for inventions, are published for gratuitous distribution. Marginal references to corresponding provisions of the Revised Statutes and of the rules of March 9, 1887, are given for the convenience of the public and of the office.

Rev.Stat., secs.  
481, 483, 489.

Marginal refer-  
ences.

The observance of the appended forms, in all cases to which they may be applicable, is recommended to inventors and attorneys.

Observance of  
forms recom-  
mended.

Printed copies of the Revised Statutes relating to the grant of patents may be obtained on application to the Commissioner.

Printed copies  
of statutes fur-  
nished.

BENTON J. HALL,  
*Commissioner of Patents.*

Approved to take effect immediately, except Rule 166, which will take effect thirty days from April 18, 1888.

WILLIAM F. VILAS,  
*Secretary of the Interior.*

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## CORRESPONDENCE.

1. All business with the office should be transacted in writing. Unless by the consent of all parties, the action of the office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

1887-1.  
Business to be  
transacted in  
writing.

2. All office letters must be sent in the name of the "Commissioner of Patents." All letters and other communications intended for the office must be addressed to him; if addressed to any of the other officers they will ordinarily be returned.

1887-2.  
Correspondence  
to be in the name  
of the Commis-  
sioner.

1887—3.  
All charges to  
be prepaid.

3. Express charges, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

1887—4.  
Personal at-  
tendance of ap-  
plicants unneces-  
sary.

4. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

1887—5.  
Correspondence  
with assignees.

5. The assignee of the entire interest of an invention is entitled to hold correspondence with the office to the exclusion of the inventor. (See Rule 20.)

1887—6.  
Correspondence  
with inventor  
and assignee.

6. When there has been an assignment of an undivided part of an invention, amendments and other actions requiring the signature of the inventor must also receive the written assent of the assignee; but official letters will only be sent to the post-office address of the inventor, unless he shall otherwise direct.

1887—7.  
Correspondence  
with attorney.

7. When an attorney shall have filed his power of attorney, duly executed, the correspondence will be held with him.

1887—8.  
Double corre-  
spondence.

8. A double correspondence with the inventor and an assignee, or with a principal and his attorney, or with two attorneys, can not generally be allowed.

1887—9.  
Separate let-  
ters.

9. A separate letter should in every case be written in relation to each distinct subject of inquiry or application. Assignments for record, final fees, and orders for copies or abstracts must be sent to the office in separate letters.

1887—10.  
Letters relating  
to applications.

10. When a letter concerns an application, it should state the name of the applicant, the title of the invention, the serial number of the application (see Rule 31), and the date of filing the same. (See Rule 32.)

Letters relating  
to patents.

11. When the letter concerns a patent, it should state the name of the patentee, the title of the invention, and the number and date of the patent.

Protests.

12. No attention will be paid to *ex parte* statements or protests of persons concerning pending applications to which they are not parties, unless information of the pendency of such applications shall have been voluntarily communicated by the applicants.

Answers to let-  
ters and tele-  
grams.

13. Letters received at the office will be answered, and orders for printed copies filled, without unnecessary delay. Telegrams, if not received before 3 o'clock p. m., can not ordinarily be answered until the following day.

## INFORMATION TO CORRESPONDENTS.

14. The office can not respond to inquiries as to the novelty of an alleged invention in advance of the filing of an application for a patent, nor to inquiries propounded with a view to ascertaining whether any alleged improvements have been patented, and, if so, to whom; nor can it act as an expounder of the patent law, nor as counselor for individuals, except as to questions arising within the office.

1887—14.  
Subjects on which information can not be given.

Of the propriety of making an application for a patent, the inventor must judge for himself. The office is open to him, and its records and models pertaining to all patents granted may be inspected either by himself or by any attorney or expert he may call to his aid, and its reports are widely distributed. (See Rule 225.) Further than this the office can render him no assistance until his case comes regularly before it in the manner prescribed by law. A copy of the rules, with this section marked, sent to the individual making an inquiry of the character referred to, is intended as a respectful answer by the office.

Rev. Stat., secs. 475, 481, 484, 4883.  
Records and models open to inventors.

Examiners' digests are not open to public inspection.

Examiner's digests

15. Caveats and pending applications are preserved in secrecy. No information will be given, without authority, respecting the filing by any particular person of a caveat or of an application for a patent or for the reissue of a patent, the pendency of any particular case before the office, or the subject-matter of any particular application, unless it shall be necessary to the proper conduct of business before the office, as provided by Rules 97, 103, and 108.

1887—15  
Caveats and pending applications kept in secrecy.  
Rev. Stat., sec. 4902.

16. After a patent has issued, the model, specification, drawings, and all documents relating to the case are subject to general inspection, and copies, except of the model, will be furnished at the rates specified in Rule 213.

1887—16  
Rev. Stat., secs. 475, 481, 484, 4883.  
Records and copies in patented cases.

## ATTORNEYS.

17. Any person of intelligence and good moral character may appear as the agent or the attorney in fact of an applicant upon filing a proper power of attorney. As the value of patents depends largely upon the careful preparation of the specifications and claims, the assistance of competent counsel will in most cases be of advantage to the applicant; but the value of their services will be proportionate to their skill and honesty, and too much care can not be exercised in their selection. The office can not assume responsibility for the acts of attorneys, nor can it assist applicants in making selections. It will, however, be unsafe to trust those who

1887—17.  
Attorneys.

Office can not aid in selection.

pretend to the possession of any facilities except capacity and diligence for procuring patents in a shorter time or with broader claims than others.

1887—18.  
Power of attorney.

18. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. But general powers given by a principal to an associate can not be considered. In each application the written authorization must be filed. A power of attorney purporting to have been given to a firm or copartnership will not be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

Copartners.

1887—19.  
Substitution  
and association.

19. Substitution or association can be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second agent to appoint a third.

1887—20.  
Revocation.

20. Powers of attorney may be revoked at any stage in the proceedings of a case upon application to and approval by the Commissioner; and when so revoked the office will communicate directly with the applicant, or such other attorney as he may appoint. An attorney will be promptly notified by the examiner in charge of the case of the revocation of his power of attorney. An assignment of an undivided interest will not operate as a revocation of the power previously given; but the assignee of the entire interest may be represented by an attorney of his own selection.

1887—21.  
Attorneys' room.

Personal interviews with examiners.

21. Parties or their attorneys will be permitted to examine their cases in the attorneys' room, but not in the rooms of the examiners. Personal interviews with examiners will be permitted only as hereinafter provided. (See Rule 152.)

1887—22.  
Decorum and  
courtesy in business.  
Papers returned.

22. (a) Applicants and attorneys will be required to conduct their business with the office with decorum and courtesy. Papers presented in violation of this requirement will be returned. But all such papers will first be submitted to the Commissioner, and only returned by his direct order.

Complaints  
against examiners.

(b) Complaints against examiners and other officers must be made in separate communications, and will be promptly investigated.

Rev. Stat., sec.  
487.  
Refusal to recognize agents.

(c) For gross misconduct the Commissioner may refuse to recognize any person as a patent agent, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.



23. Inasmuch as applications can not be examined out of their regular order, except in accordance with the provisions of Rule 63, and members of Congress can neither examine nor act in patent cases without written powers of attorney, applicants are advised not to impose upon Senators or Representatives labor which will consume their time without any advantageous results.

1887—23.

Services of Senators or Representatives.

### APPLICANTS.

24. A patent may be obtained by any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement thereof, not known nor used by others in this country, and not patented nor described in any printed publication in this or any foreign country, before his invention or discovery thereof, and not in public use nor on sale for more than two years prior to his application, unless the same is proved to have been abandoned.

1887—24.  
Rev. Stat., sec.  
4886.

Applicants.

A patent may also be obtained by any person who, by his own industry, genius, efforts, and expense, has invented and produced any new and original design for a manufacture, bust, statue, alto-relievo, or bas-relief; any new and original design for the printing of woolen, silk, cotton, or other fabrics; any new and original impression, ornament, pattern, print, or picture to be printed, painted, cast, or otherwise placed on or worked into any article of manufacture; or any new, useful, and original shape or configuration of any article of manufacture, the same not having been known or used by others before his invention or production thereof, nor patented nor described in any printed publication, upon payment of the fees required by law and other due proceedings had. (See Rules 79 to 84.)

1887—24.  
Rev. Stat., sec.  
4929.

Designs.

25. In case of the death of the inventor, the application will be made by and the patent will issue to his executor or administrator. In such case the oath required by Rule 46 will be made by the executor or administrator. In case of the death of the inventor during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent will issue to his legal representative.

Executors and administrators.

1887—25.  
Rev. Stat., sec.  
4896.

26. In case of an assignment of the whole interest in the invention, or of the whole interest in the patent to be granted, the patent will, upon request of the applicant, issue to the assignee; and if the assignee hold an undivided part interest, the patent will, upon like request, issue

1887—26.  
Rev. Stat., sec.  
4895.  
Patents to assignees.

To inventors  
and assignees  
jointly.

jointly to the inventor and the assignee; but the assignment in either case must first have been entered of record, and at a day not later than the date of the payment of the final fee (see Rule 215); and if it be dated subsequently to the execution of the application, it must give the date of execution of the application, or the date of filing, or the serial number, so that there can be no mistake as to the particular invention intended. The application and oath must be signed by the actual inventor, if alive, even if the patent is to issue to an assignee (see Rules 30, 40); if the inventor be dead, the application may be made by the executor or administrator.

1887—27.  
Rev. Stat., sec.  
4923.

Inventor be-  
lieving himself to  
be first inventor.

27. If it appear that the inventor, at the time of making his application, believed himself to be the first inventor or discoverer, a patent will not be refused on account of the invention or discovery, or any part thereof, having been known or used in any foreign country before his invention or discovery thereof, if it had not been before patented or described in any printed publication.

1887—28.  
Joint invent-  
ors.

28. Joint inventors are entitled to a joint patent; neither of them can obtain a patent for an invention jointly invented by them. Independent inventors of distinct and independent improvements in the same machine can not obtain a joint patent for their separate inventions. The fact that one person furnishes the capital and another makes the invention does not entitle them to make an application as joint inventors; but in such case they may become joint patentees, upon the conditions prescribed in Rule 26.

1887—29.  
Rev. Stat., sec.  
4887.  
Foreign patents.

29. The receipt of letters patent from a foreign government will not prevent the inventor from obtaining a patent in the United States unless the invention shall have been introduced into public use in the United States more than two years prior to the filing of the application. But every patent granted for an invention which has been previously patented by the same inventor in a foreign country will be

Limit of term  
in case of prior  
foreign patent.

so limited as to expire at the same time with the foreign patent, or, if there be more than one, at the same time with the one having the shortest unexpired term; but in no case will it be in force more than seventeen years.

## THE APPLICATION.

1887—30.  
Rev. Stat., secs.  
4888 to 4892.  
Requisites of  
application.

30. Applications for letters patent of the United States must be made to the Commissioner of Patents, and must be signed by the inventor, if alive. (See Rules 26, 33, 40, 46.) A complete application comprises the first fee of \$15, a petition, specification, and oath; and drawings, model, or

specimen when required. (See Rules 49, 56, 62.) The petition, specification, and oath must be in the English language.

31. An application for a patent will not be placed upon the files for examination until all its parts, except the model or specimen, are received. 1887-31.  
Rev.Stat.,secs.  
4888, 4889, 4890,  
4891, 4892, 4894.

Every application signed or sworn to in blank, or without actual inspection by the applicant of the petition and specification, and every application altered or partly filled up after being signed or sworn to, will be stricken from the files. Incomplete application not filed.  
Signed or sworn to in blank.

Completed applications are numbered in regular order, the present series having been commenced on the 1st of January, 1880. Annual series

The applicant will be informed of the serial number of his application.

The application must be completed and prepared for examination within two years after the filing of the petition; and in default thereof, or upon failure of the applicant to prosecute the same within two years after any action thereon, of which notice shall have been duly mailed to him or his agent, the application will be regarded as abandoned, unless it shall be shown to the satisfaction of the Commissioner that such delay was unavoidable. (See Rules 171, 172.) Abandoned unless completed within two years.

32. It is desirable that all parts of the complete application should be deposited in the office at the same time, and that all the papers embraced in the application should be attached together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application. (See Rule 10.) 1887-32.  
All parts of application to be filed together.

#### THE PETITION.

33. The petition must be addressed to the Commissioner of Patents, and must state the name and residence of the petitioner requesting the grant of a patent, designate by title the invention sought to be patented, contain a reference to the specification for a full disclosure of such invention, and must be signed by the applicant. Rev. Stat., sec.  
4888.  
Petition.

#### THE SPECIFICATION.

34. The specification is a written description of the invention or discovery, and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same. 1887-34.  
Rev. Stat., sec.  
4888.  
Specification.

1887—35.  
Rev. Stat., sec.  
4888.  
Detailed de-  
scription.

35. The specification must set forth the precise invention for which a patent is solicited, and explain the principle thereof, and the best mode in which the applicant has contemplated applying that principle, in such manner as to distinguish it from other inventions.

1887—36.  
Rev. Stat., sec.  
4888.  
Improvements.

36. In case of a mere improvement, the specification must particularly point out the parts to which the improvement relates, and must by explicit language distinguish between what is old and what is claimed as new; and the description and the drawings, as well as the claims, should be confined to the specific improvement and such parts as necessarily co-operate with it.

1887—37.  
Claims.

37. The specification must conclude with a specific and distinct claim or claims of the part, improvement, or combination which the applicant regards as his invention or discovery.

1887—38.  
Reference to  
drawings.

38. When there are drawings the description will refer to the different views by figures and to the different parts by letters or numerals (preferably the latter).

1887—39.  
Arrangement of  
specification.

39. The following order of arrangement should be observed in framing the specification :

- (1) Preamble stating the name and residence of the applicant, the title of the invention, and, if the invention has been patented in any country, the country or countries in which it has been so patented, and the date and number of each patent.
- (2) General statement of the object and nature of the invention.
- (3) Brief description of the several views of the drawings (if the invention admits of such illustration).
- (4) Detailed description.
- (5) Claim or claims.
- (6) Signature of inventor.
- (7) Signatures of two witnesses.

1887—43.  
Rev. Stat., sec.  
4888.  
Signature to  
specifications.

40. The specification must be signed by the inventor or by his executor or administrator, and the signature must be attested by two witnesses. Full names must be given, and all names, whether of applicants or witnesses, must be legibly written.

1887—40.  
Joinder of in-  
ventions.

41. Two or more independent inventions can not be claimed in one application; but where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application.

1887—41.  
Division of ap-  
plication.

42. If several inventions, claimed in a single application, be of such a nature that a single patent may not be issued to cover them, the inventor will be required to limit the

description, drawing, and claim of the pending application to whichever invention he may elect. The other inventions may be made the subjects of separate applications, which must conform to the rules applicable to original applications. If the independence of the inventions be clear, such limitation will be made before any action upon the merits; otherwise it may be made at any time before final action thereon, in the discretion of the examiner.

43. When an applicant files two or more applications relating to the same subject-matter of invention, all showing but only one claiming the same thing, the applications not claiming it must contain references to the application claiming it. 1887-42. Cross-references in cases relating to same subject.

44. A reservation for a future application of subject-matter disclosed but not claimed in a pending application, but which subject-matter might be claimed therein, will not be permitted in the pending application. Reservation clauses not permitted.

45. The specification and claims must be plainly written or printed on but one side of the paper. All interlineations and erasures must be clearly referred to in marginal or foot notes on the same sheet of paper. Legal-cap paper with the lines numbered is deemed preferable, and a wide margin must always be reserved upon the left-hand side of the page. 1887-44. Rev. Stat., sec. 4888. Legible writing required.

#### THE OATH.

46. The applicant, if the inventor, must make oath or affirmation that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement for which he solicits a patent, that he does not know and does not believe that the same was ever before known or used, and shall state of what country he is a citizen and where he resides. In every original application the applicant must distinctly state, under oath, whether the invention has or has not been patented to himself, or to others with his knowledge or consent, in any country, and, if it has been, the country or countries in which it has been so patented, giving the date and number of each patent; and should also state that it has not been patented in any other country or countries than those mentioned, and that, according to his knowledge and belief, the invention has not been in public use or on sale in the United States for more than two years prior to the application in this country.\* (See Rule 39.) 1887-45. Rev. Stat., sec. 4892. Oath of applicant. Rev. Stat., secs. 4887, 4892. Statement as to foreign patents and public use.

\*NOTE.—In all applications for letters patent filed in this office subsequent to October 24, 1882, the signature of the applicant is required to the oath, in accordance with Form 17, Appendix.



If such application shall be found to be patentable, on the payment of the final fee, or at some time before patent shall issue, applicant shall file a statement setting forth, by date and number, so far as known, any patents for the same invention, granted to him or to others with his knowledge or consent, between the date of the execution of the application and the date of such payment.

Additional  
oath.

The Commissioner may require an additional oath in cases where the applications have not been filed in the Patent Office within a reasonable time after the execution of the original oath.

1887—46.  
Rev. Stat., sec.  
4896.

Oath by execu-  
tor or administra-  
tor.

Officers author-  
ized to adminis-  
ter oaths.

47. If the application be made by an executor or administrator, the form of the oath will be correspondingly changed.

The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public of the foreign country in which the applicant may be, the oath being attested in all cases, in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. When the person before whom the oath or affirmation is made is not provided with a seal his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.\*

1887—47.  
Supplemental  
oath to amend-  
ment embracing  
new matter.

48. In case the applicant seeks by amendment to introduce any claim not substantially embraced in the statement of invention or claim originally presented, and therefore not covered by the original oath, he will be required to file a supplemental oath to the effect that the subject-matter of the proposed amendment was part of his invention and was invented before he filed his original application, and such supplemental oath must be attached to and properly identify the proposed amendment.

#### THE DRAWINGS.

1887—48.  
Rev. Stat., sec.  
4889.  
Drawings.

49. The applicant for a patent is required by law to furnish a drawing of his invention whenever the nature of the case admits of it.

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\* A certificate of the official character of a magistrate, stating date of appointment and term of office, may be filed in the Patent Office, which will obviate the necessity of separate certificates in individual cases.



50. The drawing may be signed by the inventor, or the name of the inventor may be signed on the drawing by his attorney in fact, and must be attested by two witnesses. The drawing must show every feature of the invention covered by the claims. When the invention consists of an improvement on an old machine, the drawing must exhibit, in one or more views, the invention itself, disconnected from the old structure, and also, in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

1887-49.  
Requisites of  
drawings.

51. Three several editions of patent-drawings are printed and published: one for office use, certified copies, etc., of the size and character of those attached to patents, the work being about 6 by 9½ inches; one reduced to half that scale, or one-fourth the surface, of which four are printed on a page to illustrate the volumes distributed to the courts; and one reduction—to about the same scale—of a selected portion of each drawing for the Official Gazette.

1887-50.  
Three editions  
of drawings.

This work is done by the photolithographic process, and therefore the character of each original drawing must be brought as nearly as possible to a uniform standard of excellence, suited to the requirements of the process, and calculated to give the best results, in the interests of inventors, of the office, and of the public. The following rules will therefore be rigidly enforced, and any departure from them will be certain to cause delay in the examination of an application for letters patent:

Uniform stand-  
ard.

- (1) Drawings must be made upon pure white paper of a thickness corresponding to three-sheet Bristol-board. The surface of the paper must be calendered and smooth. India ink alone must be used, to secure perfectly black and solid lines. Paper and ink.
- (2) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downwardly from the marginal line, a space of not less than 1½ inches is to be left blank for the heading of title, name, number, and date. Size of sheet  
and marginal  
lines.
- (3) All drawings must be made with the pen only. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines, however fine, to shading, and to lines repre- Character and  
color of lines.

senting cut surfaces in sectional views. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open. Sectional shading should be made by oblique parallel lines, which may be about one-twentieth of an inch apart.

Few lines and  
little or no shad-  
ing.

- (4) Drawings should be made with the fewest lines possible consistent with clearness. By the observance of this rule the effectiveness of the work after reduction will be much increased. Shading (except on sectional views) should be used only on convex and concave surfaces, where it should be used sparingly, and may even there be dispensed with if the drawing is otherwise well executed. The plane upon which a sectional view is taken should be indicated on the general view by a broken or dotted line. Heavy lines on the shade sides of objects should be used, except where they tend to thicken the work and obscure letters of reference. The light is always supposed to come from the upper left-hand corner at an angle of forty-five degrees. Imitations of wood or surface graining should not be attempted.

Scale of draw-  
ing.

- (5) The scale to which a drawing is made ought to be large enough to show the mechanism without crowding, and two or more sheets should be used if one does not give sufficient room to accomplish this end; but the number of sheets must never be more than is absolutely necessary.

Letters of ref-  
erence.

- (6) The different views should be consecutively numbered. Letters and figures of reference must be carefully formed. They should, if possible, measure at least one-eighth of an inch in height, so that they may bear reduction to one twenty-fourth of an inch; and they may be much larger when there is sufficient room. They must be so placed in the close and complex parts of drawings as not to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, where there is available space, and connected by short broken lines with the parts to which they refer. They must never appear upon shaded surfaces, and when it is difficult to avoid this, a blank space must be left in the shading where

the letter occurs, so that it shall appear perfectly distinct and separate from the work. If the same part of an invention appear in more than one view of the drawing it must always be represented by the same character, and the same character must never be used to designate different parts.

- (7) The signature of the inventor should be placed at the lower right-hand corner of the sheet, and the signatures of the witnesses at the lower left-hand corner, all within the marginal line, but in no instance should they trespass upon the drawings. (See specimen drawing, Appendix.) The title should be written with pencil on the back of the sheet. The permanent names and title will be supplied subsequently by the office in uniform style.

Signatures of  
inventor and wit-  
nesses.

Title.

When views are longer than the width of the sheet, the sheet should be turned on its side, and the heading will be placed at the right and the signatures at the left, occupying the same space and position as in the upright views, and being horizontal when the sheet is held in an upright position; and all views on the same sheet must stand in the same direction.

Large views.

- (8) As a rule, one view only of each invention can be shown in the Gazette illustrations. The selection of that portion of a drawing best calculated to explain the nature of the specific improvement would be facilitated and the final result improved by the judicious execution of a figure with express reference to the Gazette, but which might at the same time serve as one of the figures referred to in the specification. For this purpose the figure may be a plan, elevation, section, or perspective view, according to the judgment of the draftsman. It must not cover a space exceeding 16 square inches. All its parts should be especially open and distinct, with very little or no shading, and it must illustrate the invention claimed only, to the exclusion of all other details. (See specimen drawing.) When well executed, it will be used without curtailment or change; but any excessive fineness, or crowding, or unnecessary elaborateness of detail will necessitate its exclusion from the Gazette.

Figure for Ga-  
zette.

Drawings to be rolled for transmission.

No stamp, advertisement, or address permitted on face of drawings.

1887-51.  
Drawings for designs.

1887-52.  
Drawings for reissue applications.  
Rev. Stat., sec. 4895.

1887-53.  
Defective drawings.

1887-54.  
Drawings furnished by office.

(9) Drawings should be rolled for transmission to the office, not folded.

An agent's or attorney's stamp, or advertisement, or written address will not be permitted upon the face of a drawing, within or without the marginal line.

52. These rules are modified as to drawings for designs. (See rules for designs, 82, 83, 84.)

53. All reissue applications must be accompanied by new drawings, of the character required in original applications, and the inventor's name must appear upon the same in all cases; and such drawings shall be made upon the same scale as the original drawing, or upon a larger scale, unless a reduction of scale shall be authorized by the Commissioner.

54. The foregoing rules relating to drawings will be rigidly enforced. Every drawing not artistically executed in conformity thereto may be admitted for purposes of examination if it sufficiently illustrates the invention; but in such cases a new drawing must be furnished before the application can be allowed. The office will make the necessary corrections at the applicant's option and cost.

55. Applicants are advised to employ competent artists to make their drawings.

The office will furnish the drawings at cost, as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them.

No employés of the Patent Office, except those regularly assigned to such duty, shall make any drawings, whether copies or originals, for applicants, agents, or attorneys.

#### THE MODEL.

1887-55.  
Rev. Stat., sec. 4891.  
Models, when required.

56. Preliminary examinations will not be made for the purpose of determining whether models are required in particular cases. Applications complete in all other respects will be sent to the examining divisions, whether models are or are not furnished. A model will only be required or admitted as a part of the application when on examination of the case in its regular order the primary examiner shall find it to be necessary or useful. In such case, if a model has not been furnished, the examiner shall notify the applicant of such requirement, which will constitute an official action in the case. When a model is received in compliance with the official requirement, the date of its filing shall be entered on the file-wrapper. Models not required nor admitted, if already filed, will be returned to the applicants. When a model is required the examination will be suspended until it shall have been filed. From a decision of the pri-

mary examiner overruling a motion to dispense with a model an appeal may be taken to the Commissioner in person, under the provisions of Rule 145.

57. The model must clearly exhibit every feature of the machine which forms the subject of a claim of invention, but should not include other matter than that covered by the actual invention or improvement, unless it be necessary to the exhibition of the invention in a working model. 1887—56. Requisites of model.

58. The model must be neatly and substantially made of durable material, metal being deemed preferable; but when the material forms an essential feature of the invention, the model should be constructed of that material. The model must not be more than one foot in length, width, or height, except in cases in which the Commissioner shall admit working models of complicated machines of larger dimensions. If made of wood, it must be painted or varnished. Glue must not be used; but the parts should be so connected as to resist the action of heat or moisture. When practicable, to prevent loss, the model or specimen should have the name of the inventor permanently fixed thereon. In cases where models are not made strong and substantial, as here directed, the application will not be examined until a proper model is furnished. 1887—57. Material and dimensions.

59. A working model is often desirable, in order to enable the office fully and readily to understand the precise operation of the machine. 1887—58. Working models.

60. In all applications which have remained rejected for more than two years, the model, unless it is deemed necessary that it should be preserved in the office, may be returned to the applicant upon demand, and at his expense; and the model in any pending case of less than two years' standing may be returned to the applicant upon the filing of a formal abandonment of the application, signed by the applicant in person. (See Rule 171.) 1887—59. Rev. Stat., sec. 485. Models in rejected and abandoned cases.

Models belonging to patented cases shall not be taken from the office except in the custody of some sworn employee of the office specially authorized by the Commissioner. Models in patented cases.

61. Models filed as exhibits in contested cases may, at his expense and upon his order, be returned to the applicant. If not claimed within a reasonable time they may be disposed of at the discretion of the Commissioner. 1887—60. Models filed as exhibits.

#### SPECIMENS.

62. When the invention or discovery is a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of the composition, and of its ingredients, 1887—61. Rev. Stat., sec. 489. Specimens.



sufficient in quantity for the purpose of experiment. In all cases where the article is not perishable, a specimen of the composition claimed, put up in proper form to be preserved by the office, must be furnished. (Rules 56, 60, and 61 apply to specimens also.)

### THE EXAMINATION.

1887—62.  
Order of examination.

63. Applications filed in the Patent Office are classified according to the various arts, and are taken up for examination in regular order of filing, those in the same class of invention being examined and disposed of, as far as practicable, in the order in which the respective applications are completed.

The following new applications have preference over all other new cases at every period of their examination, in the order enumerated:

Privileged cases.

- (1) Applications wherein the inventions are deemed of peculiar importance to some branch of the public service, and when for that reason the head of some department of the Government specially requests immediate action, and the Commissioner so orders.
- (2) Applications for extensions.
- (3) Applications for reissues.
- (4) Applications covering inventions patented, or for which applications have been made by the same inventor in foreign countries.
- (5) Applications which appear to interfere with other applications previously considered and found to be allowable, or which it is demanded shall be placed in interference with an unexpired patent or patents.

The following applications, previously acted upon, will have preference over other business:

- (1) Cases remanded by an appellate tribunal for further action, and statements of grounds of decisions provided for in Rules 135 and 145.
- (2) Applications which have been put into condition for further action by the examiner shall be entitled to precedence over new applications in the same class of invention.
- (3) Applications which have been renewed or revived but the subject-matter not changed.
- (4) When the inventor dies and his executor or administrator files a new application for the same invention, the new application may be given the same status in the order of examination as the original by order of the Commissioner.



64. The first step in the examination of an application will be to determine whether it is, in all respects, in proper form. If, however, the objections as to form are not vital, the examiner shall proceed to the consideration of the application on its merits; and in such case he must, if possible, in his first letter to the applicant, state all his objections, whether formal or otherwise, and until the formal objections are disposed of, further action will not be taken upon the merits without the order of the Commissioner.

1887-63.  
Questions of  
form.

## REJECTIONS AND REFERENCES.

65. Whenever, on examination, any claim of an application is rejected for any reason whatever, the applicant will be notified thereof. The reasons for such rejection will be fully and precisely stated, and such information and references will be given as may be useful in aiding the applicant to judge of the propriety of prosecuting his application or of altering his specification; and if, after receiving such notice, he shall persist in his claim, with or without altering his specification, the application will be re-examined. If upon re-examination the claim shall be again rejected, the reasons therefor will be fully and precisely stated.

1887-64.  
Rev. Stat., sec.  
4903.  
Notice of rejection with information and references.

Re-examination.

66. Upon the rejection of an application for want of novelty, the examiner must cite the best references at his command. When the reference shows or describes inventions other than that claimed by the applicant, the particular part relied on will be designated as nearly as practicable. The pertinence of the reference, if not obvious, must be clearly explained and the anticipated claim specified.

1887-65.  
On rejection for want of novelty best references to be cited.  
Requisites of notice of rejection.

If domestic patents be cited, their dates and numbers, the names of the patentees, and the classes of invention must be stated. If foreign patents be cited, their dates and numbers must be stated, and such other data must be furnished as will enable the applicant to identify the patents cited. If printed publications be cited, the title, date, page, or plate, and place of publication, or place where a copy can be found, will be given. When reference is made to facts within the personal knowledge of an employé of the office, the data will be as specific as possible, and the reference must be supported, when called for, by the affidavit of such employé (Rule 76); such affidavit shall be subject to contradiction, explanation, or corroboration by the affidavits of the applicant and other persons. If the patent, printed matter, plates, or drawings so referred to

Citation of patents.

Affidavits.

are in the possession of the office, copies will be furnished at cost upon the order of the applicant.

1887-66.  
Adverse decisions on preliminary questions in *ex parte* cases.

67. Whenever, in the treatment of an *ex parte* application, an adverse decision is made upon any preliminary or intermediate question, without the rejection of any claim, notice thereof, together with the reasons therefor, will be given to the applicant, in order that he may judge of the propriety of the action. If, after receiving such notice, he traverse the propriety of the action, the matter will be reconsidered.

Reconsideration.

### AMENDMENTS AND ACTIONS BY APPLICANTS.

1887-67.  
Right to amend.

68. The applicant has a right to amend before or after the first rejection or action; and he may amend as often as the examiner presents new references or reasons for rejection.

Requisites of amendments.

In so amending, the applicant must clearly point out all the patentable novelty which he thinks the case presents in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections.

Amendment after claims ready for appeal.

After such action upon an application as will entitle the applicant to an appeal to the examiners-in-chief (Rule 134), or after such appeal has been taken, amendments canceling claims or presenting those rejected in better form for consideration on appeal may be admitted; but the admission of such an amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal, or to save it from abandonment under Rule 171. If amendments touching the merits of the application are presented after the case is in condition for appeal, or after appeal has been taken, they may be admitted upon a showing duly verified of good and sufficient reasons why they were not earlier presented. From the refusal of the primary examiner to admit an amendment a petition will lie to the Commissioner under Rule 145. No amendment can be made in appealed cases between the filing of the examiner's statement of the grounds of his decision (Rule 135) and the decision of the appellate tribunal. After decision on appeal amendments can only be made as provided in Rule 142.

1887-68.  
Request for reconsideration.

69. In order to be entitled to the reconsideration provided for in Rules 65 and 67, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action. The mere allegation that the examiner has erred will not be received as a proper reason for such reconsideration.

70. In original applications which are capable of illustration by drawing or model all amendments of the model, drawings, or specification and all additions thereto must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either involving a departure from the original invention can be shown or claimed only in a separate application. If the invention does not admit of illustration by drawing or model, amendment of the specification will be permitted upon proof satisfactory to the Commissioner that the matter covered by the proposed amendment was a part of the original invention. The supplemental oath prescribed in Rule 48 may or may not be sufficient.

1887-69.  
Amendments to correspond to original model, drawing, or specification.

Amendment in cases which do not admit of illustration by model or drawing.

71. The specification and drawing must be amended and revised, when required, for the purposes of correcting inaccuracies of description or unnecessary prolixity, and of securing correspondence between the claim, the specification, and the drawing.

1887-70.  
Inaccuracies or prolixity.

72. After the completion of the application the office will not return the specification for any purpose whatever. If applicants have not preserved copies of the papers which they wish to amend, the office will furnish them on the usual terms.

1887-71.  
Specification not to be returned.

The model or drawing, but not both at the same time, may be withdrawn for correction. But a drawing can not be withdrawn unless a model has been filed and accepted by the examiner as a part of the application.

Model or drawing returned for correction.

73. In every amendment the exact word or words to be stricken out or inserted in the application must be specified, and the precise point indicated where the erasure or insertion is to be made. All such amendments must be on sheets of paper separate from the papers previously filed, and written on but one side of the paper. Erasures and mutilation of the papers and records must not be made by the applicant.

1887-72.  
Amendments must be specific.

How written.

Amendments and papers requiring the signature of the applicant must also, in case of assignment of an undivided part of the invention, be signed by the assignee. (Rules 6, 107.)

Signature to amendments.

74. When an amendatory clause is amended it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the application is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to arrange the papers for printing or copying,

Specification rewritten.

the examiner or Commissioner may require the entire specification to be rewritten.

1887-74.  
Patents showing but not claiming invention.

75. When an original or reissue application is rejected on reference to an expired or unexpired domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention in this country before the filing of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, and shall also make oath that he does not know and does not believe that the invention has been in public use or on sale in this country for more than two years prior to his application, and that he has never abandoned the invention, then the patent or publication cited will not bar the grant of a patent to the applicant.

Oath.

1887-75.  
Application showing but not claiming invention.

76. When an application is rejected on reference to an expired or unexpired domestic patent which shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employé of the office, set forth in an affidavit (when requested) of such employé (Rule 66), or when rejected on the ground of public use or sale, or upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative, or frivolous, or injurious to public health or morals, affidavits or depositions supporting or traversing these references or objections may be received; but affidavits will not be received in other cases without special permission of the Commissioner. (See Rule 140.)

Affidavits.

1887-76.  
Rev. Stat., sec. 4894.  
Abandonment.

77. If an applicant neglect to prosecute his application for two years after the date when the last official notice of any action by the office was mailed to him, the application will be held to be abandoned, as set forth in Rule 171.

Suspension of application.

Whenever action upon an application is suspended upon request of an applicant, the period of two years running against such application shall be considered as beginning at the date of the last official action preceding such request.

1887-77.  
Amendment and jurisdiction after notice of allowance.

78. Amendments will not be permitted after the notice of allowance of an application, and the examiner will exercise jurisdiction over such an application only by special authority from the Commissioner.

Amendment without withdrawal from issue.

Amendments not affecting the merits may be made after the allowance of an application, and after payment of the final fee, if the specification has not been printed, on the

recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue. (See Rule 165.)

## DESIGNS.

79. A patent for a design may be granted to any person in the cases specified in Rule 24, upon payment of the fee required by law, and other due proceedings had, as in cases of inventions or discoveries.

80. Patents for designs are granted for the term of three and one-half years, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

81. The proceedings in applications for patents for designs are substantially the same as in applications for other patents. The specification must distinctly point out the characteristic features of the design, and carefully distinguish between what is old and what is believed to be new. The claims also, when the design admits of it, should be as distinct and specific as in the case of other applications. The following order of arrangement should be observed in framing the specification :

- (1.) Preamble stating name and residence of the applicant, title of the design, and the name of the article for which the design has been invented.
- (2.) Detailed description of the design as it appears in the drawing or photograph, letters or figures of reference being used.
- (3.) Claim or claims.
- (4.) Signature of inventor.
- (5.) Signatures of two witnesses.

82. When the design can be sufficiently represented by drawings or photographs a model will not be required.

83. Whenever a photograph or an engraving is employed to illustrate the design it must be mounted upon Bristol-board 10 by 15 inches in size, and properly signed and witnessed. The applicant will be required to furnish ten extra copies of such photograph or engraving (not mounted), of a size not exceeding  $7\frac{1}{2}$  inches by 11. Negatives are not required.

84. Whenever the design is represented by a drawing made to conform to the rules laid down for drawings of mechanical inventions, but one copy need be furnished. Additional copies will be supplied by the photolithographic process at the expense of the Patent Office.

(For forms to be used in applications for design patents, see Appendix.)

1887-78.  
Rev.Stat., secs.  
4929 to 4933.  
Design patents,  
to whom granted.

1887-79.  
Rev.Stat., sec.  
4931.  
Terms of de-  
sign patents.

1887-80.  
Proceedings.  
Rev.Stat., sec.  
4933.

Arrangement  
of specification.

1887-81.  
Rev.Stat., sec.  
4930.  
Model.

1887-82.  
Photographs.  
Engravings.

1887-83.  
Drawing.



## REISSUES.

1887—84.  
Rev. Stat., secs.  
4 95, 4916.  
Reissue, when  
granted.

85. A reissue is granted to the original patentee, his legal representatives, or the assignees of the entire interest, when the original patent is inoperative or invalid by reason of a defective or insufficient specification, or by reason of the patentee claiming as his invention or discovery more than he had a right to claim as new, provided the error has arisen through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention.

Reissue applications must be made and the specifications sworn to by the inventors, if they be living.

1887—85.  
Abstract of title.  
Assent of assignees.

86. The petition for a reissue must be accompanied by a certified copy of the abstract of title, giving the names of all assignees owning any undivided interest in the patent. In case the application be made by the inventor, it must be accompanied by the written assent of such assignees.

Prerequisites.  
1887—86.  
Oath of applicant for reissue.

87. Applicants for reissue, in addition to the requirements of Rule 46, must also file with their petitions a statement on oath as follows:

- (1) That applicant verily believes the original patent to be inoperative or invalid, and the reason why.
- (2) When it is claimed that such patent is so inoperative or invalid "by reason of a defective or insufficient specification," particularly specifying such defects or insufficiencies.
- (3) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," distinctly specifying the part or parts so alleged to have been improperly claimed as new.
- (4) Particularly specifying the errors which it is claimed constitute the inadvertence, accident, or mistake relied upon, and how they arose or occurred.
- (5) That said errors arose "without any fraudulent or deceptive intention" on the part of the applicant.

1887—87.  
New matter.

88. New matter shall not be allowed to be introduced into the reissue specification, nor in case of a machine shall the model or drawings be amended except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention and was omitted from the specification by inadvertence, accident, or mistake.



89. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division of such reissued letters patent. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of Rule 50. Unless otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

1887-88.  
Division of reissue application.

All divisions to issue simultaneously.

90. An original claim, if reproduced in the reissue specification, is subject to re-examination, and the entire application will be revised and restricted in the same manner as original applications.

1887-89.  
Re-examination of reissue claims.

91. The application for a reissue must be accompanied by a surrender of the original patent, or, if that be lost, by an affidavit to that effect, and a certified copy of the patent; but if a reissue be refused, the original patent will, upon request, be returned to the applicant.

1887-90.  
Surrender of original patent.

92. Matter shown and described in an unexpired patent, and which might have been lawfully claimed therein, but which was not claimed by reason of a defect or insufficiency in the specification, arising from inadvertence, accident, or mistake, and without fraud or deceptive intent, can not be subsequently claimed by the patentee in a separate patent, but only in a reissue of the original patent.

1887-91.  
Matter to be claimed only on reissue.

## INTERFERENCES.

93. An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention. The fact that one of the parties has already obtained a patent will not prevent an interference, for, although the Commissioner has no power to cancel a patent, he may grant another patent for the same invention to a person who proves to be the prior inventor.

1887-92.  
Rev. Stat., sec. 4904.  
Interference defined.

94. Interferences will be declared in the following cases, when all the parties claim substantially the same patentable invention:

1887-93.  
When declared.

- (1) Between two or more original applications containing conflicting claims.

Original applications.

Original applications and unexpired patents.

Original and reissue applications.

Original and reissue applications.

Reissue applications.

Reissue applications.

Reissue application and unexpired patent.

Reissue application and unexpired patent.

1887-95.  
Preparation for interference.

1887-96.  
Failure to prepare for interference.

- (2) Between an original application and an unexpired patent containing conflicting claims, when the applicant, having been rejected on the patent, shall file an affidavit that he made the invention before the patentee's application was filed.
- (3) Between an original application and an application for the reissue of a patent granted during the pendency of such original application.
- (4) Between an original application and a reissue application, when the original applicant shall file an affidavit showing that he made the invention before the patentee's original application was filed.
- (5) Between two or more applications for the reissue of patents granted on applications pending at the same time.
- (6) Between two or more applications for the reissue of patents granted on applications not pending at the same time, when the applicant for reissue of the later patent shall file an affidavit showing that he made the invention before the application was filed on which the earlier patent was granted.
- (7) Between a reissue application and an unexpired patent, if the original applications were pending at the same time, and the reissue applicant shall file an affidavit showing that he made the invention before the original application of the other patentee was filed.
- (8) Between an application for reissue of a later unexpired patent and an earlier unexpired patent granted before the original application of the later patent was filed, if the reissue applicant shall file an affidavit showing that he made the invention before the original application of the earlier patent was filed.

95. Before the declaration of interference all preliminary questions must be settled by the primary examiner, and the issue must be clearly defined; the invention which is to form the subject of the controversy must be decided to be patentable, and the claims of the respective parties must be put in such condition that they will not require alteration after the interference shall have been finally decided, unless the testimony adduced upon the trial shall necessitate or justify such change.

96. When, however, a party who is required to put his application in a condition proper for an interference fails to do so within a reasonable time specified, the declaration of

interference will not be delayed. After final judgment of priority the application of such party will be held for revision and restriction, subject to interferences with other applications. (See Rule 94.)

97. When an interference is found to exist and the applications are prepared therefor, the primary examiner will forward to the examiner of interferences the files and drawings; notices of interference for all the parties (as specified in Rule 103) disclosing the name and residence of each party and that of his attorney, and, if any party be a patentee, the date and number of the patent; the ordinals of the conflicting claims and the invention claimed; and the issue which shall be clearly and concisely defined, in so many counts or branches as may be necessary in order to include all interfering claims. The primary examiner shall also forward to the examiner of interferences for his use a statement disclosing the applications involved in interference, fully identified, and arranged in the inverse chronological order of their filing as completed applications, and also disclosing the issue or issues and the ordinals of the conflicting claims.

1887—97.  
Notices of interference drafted and forwarded to examiner of interferences.

Whenever it shall be found that two or more parties whose interests are in conflict are represented by the same attorney, the examiner will notify each of said principal parties, and also the attorney, of this fact.

Conflicting parties having the same counsel notified.

98. Upon receipt of the notices of interference, the examiner of interferences will make an examination thereof, in order to ascertain whether the issue between the parties has been clearly defined, and whether they are otherwise correct. If he be of the opinion that the notices are ambiguous, or are defective in any material point, he will transmit his objections to the primary examiner, who will promptly notify the examiner of interferences of his decision to amend or not to amend them.

1887—98.  
Revision of notices by examiner of interferences.

99. In case of a material disagreement between the examiner of interferences and the primary examiner, the points of difference shall be referred to the Commissioner for decision.

1887—99.  
Reference to Commissioner.

100. The primary examiner will retain jurisdiction of the case until the declaration of interference is made.

Primary examiner retains jurisdiction.

101. Upon the institution and declaration of the interference, as provided in Rule 102, the examiner of interferences will take jurisdiction of the same, which will then become a contested case; but the primary examiner will determine the motions mentioned in Rule 122, as therein provided.

Jurisdiction of examiner of interferences.

1887—103.  
Primary examiner to determine certain motions.

102. When the notices of interference are in proper form the examiner of interferences will add thereto a designation

Institution and declaration of interference.

1887—101.  
Rev. Stat., sec.  
4904.

of the time within which the preliminary statements required by Rule 110 must be filed, and will, *pro forma*, institute and declare the interference by forwarding the notices to the several parties to the proceeding.

1887—102.  
Notices to parties.

103. The notices of interference will be forwarded by the examiner of interferences to all the parties, in care of their attorneys, if they have attorneys, and, if the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice will be sent to the patentee and to his attorney of record.

Publication in  
Official Gazette.

When the notices sent in the interest of a patent are returned to the office undelivered, or when one of the parties resides abroad, and his agent in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

1887—109.  
Motion for postponement of time  
for filing.

104. If either party require a postponement of the time for filing his preliminary statement, he will present his motion duly served on the other parties, with his reasons therefor, supported by affidavit, and such motion should be made, if possible, prior to the day previously fixed upon. But the examiner of interferences may, in his discretion, dispense with service of notice of such motion.

Certified copies  
used in interference  
proceedings.

105. When an application is involved in an interference in which a part only of the invention is included in the issue, the applicant may file certified copies of the part or parts of the specification, claims, and drawings which cover the interfering matter, and such copies may be used in the proceeding in place of the original application.

1887—125.  
New application for claims  
not in interference.

106. When a part only of an application is involved in an interference, the applicant may withdraw from his application the subject-matter adjudged not to interfere, and file a new application therefor, or he may file a divisional application for the subject-matter involved, if the invention can be legitimately divided: *Provided*, That no claim shall be made in either application broad enough to include matter claimed in the other.

1887—104.  
Disclaimer to avoid interference.

107. An applicant involved in an interference may, with the written consent of the assignee, when there has been an assignment, before the date fixed for the filing of his preliminary statement (see Rule 110), in order to avoid the continuance of the interference, disclaim under his own signature, attested by two witnesses, the invention of the particular matter in issue, and upon such disclaimer and the cancellation of any claims involving such interfering matter judgment shall be rendered against him, and a copy of the

Signature to.

disclaimer shall be embodied in and form part of his specification. (See Rule 196.) But if the interference shall have been declared between an application having a generic claim and one having a subordinate specific claim, the applicant making the specific claim may disclaim the matter in issue, as hereinbefore provided, without canceling his claim. The files and records shall then be returned by the examiner of interferences to the primary examiner. If the primary examiner shall find that the interfering claims stand so related to each other (as generic and specific, respectively), and that the disclaimer filed is suitable to the case, he shall dissolve the interference; otherwise not. His decision shall be subject to appeal as in other cases of dissolution. (Rule 122.)

108. When applications are declared to be in interference, the interfering parties will be permitted to see or obtain copies of each other's file-wrappers, and so much of their contents as relate to the interference, after the preliminary statements referred to in Rule 110 have been received and approved; but information of an application will not be furnished by the office to an opposing party, except as provided in Rules 97 and 103, until after the approval of such statement.

1887—126.  
Inspection of  
claims of oppos-  
ing parties.

109. When an application is involved in an interference in part and shows and describes, without claiming, a patentable invention claimed by another party thereto, the applicant may, at any time within twenty days after the preliminary statements (referred to in Rule 110) of the parties have been received and approved, on motion duly made, as provided in Rule 153, file an amendment of his application duly claiming such invention, and on the admission of such amendment the invention shall be included in the interference. Such motion must be accompanied by the proposed amendment, and when in proper form will be transmitted by the examiner of interferences to the primary examiner for his determination. In case the amendment shall be admitted, the primary examiner will redeclare the interference, prepare new notices, and forward the papers and files to the examiner of interferences, who will proceed in accordance with Rule 103. The decision of the primary examiner will be binding upon the examiner of interferences, unless reversed or modified on appeal, as provided in Rule 124.

1887—94.  
Invention  
shown but not  
claimed in appli-  
cation.

110. Each party to the interference will be required to file a concise preliminary statement, under oath, on or before a date to be fixed by the office, showing the following facts:

1887—105.  
Preliminary  
statements.

(1) The date of original conception of the invention set forth in the declaration of interference.

Requirements  
of.



- (2) The date upon which a drawing of the invention was made.
- (3) The date upon which a model of the invention was made.
- (4) The date upon which the invention was first disclosed to others.
- (5) The date of the reduction to practice of the invention.
- (6) A statement showing the extent of use of the invention.

If a drawing or model has not been made, or if the invention has not been reduced to practice or disclosed to others or used to any extent, the statement must specifically disclose these facts.

When the invention was made abroad the statement should set forth:

- (1) That applicant made the invention set forth in the declaration of interference.
- (2) Whether or not the invention was ever patented; if so, when and where, giving the date and number of each patent.
- (3) Whether or not the invention was ever described in a printed publication; if so, when and where, giving the title, place, and date of such publication.
- (4) Whether or not the invention was ever introduced into this country; if so, giving the circumstances, with the dates connected therewith, which are relied upon to establish the fact.

The preliminary statements should be carefully prepared, as the parties will be strictly held in their proofs to the dates set up therein.

Sealed up.

The statement must be sealed up before filing (to be opened only by the examiner of interferences, see Rule 111), and the name of the party filing it, the title of the case, and the subject of the invention indicated on the envelope. The envelope should contain nothing but this statement.

(For forms see 35, Appendix.)

1887-105.  
Opened to in-  
spection.

111. The preliminary statements shall not be opened to the inspection of the opposing parties until each one shall have been filed, or the time for such filing, with any extension thereof, shall have expired, and not then unless they have been examined by the proper officer and found to be satisfactory.

In default.

Any party in default in filing his preliminary statement shall not have access to the preliminary statement or statements of his opponent or opponents until he has either filed



his statement or waived his right thereto, and agreed to stand upon his record date.

112. If, on examination, a statement is found to be defective in any particular, the party shall be notified of the defect and wherein it consists, and a time assigned within which he must cure the same by an amended statement; but in no case will the original or amended statement be returned to the party after it has been filed. If a party shall refuse to file an amended statement, he will be restricted to his record date in the further proceedings in the interference.

1887—106.  
Notice to  
amend.

113. In case of material error arising through inadvertence or mistake, the statement may be corrected on motion (see Rule 153), upon showing to the satisfaction of the Commissioner that the correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

1887—110.  
Motion to  
amend.

114. If the junior party to an interference, or if any party thereto other than the senior party, fail to file a statement, or if his statement fail to overcome the *prima facie* case made by the respective dates of application, judgment against such party may be rendered upon the record, and the interference will proceed between the remaining parties. Within the period fixed as a limit of appeal from such judgment, said party may bring any of the motions permitted by the rules, provided he has not waived his right of appeal. The filing of such a motion, noticed for hearing within the limit of appeal, will operate to stay the running of the time so limited until the final determination of the motion.

1887—107.  
Failure to file  
preliminary  
statement.  
Failure to over-  
come *prima facie*  
case.

115. If a party to an interference fail to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to his application.

1887—108.  
Failure to file,  
testimony ex-  
cluded setting up  
invention prior to  
application date.

116. In original proceedings in cases of interference the several parties will be presumed to have made the invention in the chronological order in which they filed their completed applications for patents clearly illustrating and describing the invention; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

1887—111.  
Presumption as  
to order of inven-  
tion.

117. The preliminary statement can in no case be used as evidence in behalf of the party making it.

1887—108.  
Statement not  
evidence.

1887—112.  
Time for taking  
testimony.

118. Times will be assigned in which the junior applicant shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior applicant may take rebutting testimony; but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior applicants and to rebut their evidence, and also to meet the evidence of junior applicants.

1887—113.  
Failure to take  
testimony.

119. Whenever the time for taking the testimony of a party to an interference shall have expired, and no testimony shall have been taken by such party, any senior party may, by motion based on a showing properly verified and served on such party in default, have an order entering judgment against such defaulting party, unless the latter shall, at a day set, and not less than ten days after the hearing of the motion, show good and sufficient cause why the judgment shall not be entered.

1887—114.  
Postponement  
of hearing.

120. If either party desire to have the hearing continued, he will make application for such postponement by motion (see Rule 153), and will show sufficient reason therefor by affidavit.

1887—115.  
Enlargement of  
time for taking  
testimony.

121. If either party desire an extension of the time assigned to him for taking testimony, he will make application therefor, as provided in Rule 154 (5).

1887—116.  
Motion to dis-  
solve for irregu-  
larity, non-pat-  
entability, etc.

122. Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of priority, or which deny the patentability of an applicant's claim, or his right to make the claim, should, if possible, be made not later than the twentieth day after the statements of the parties have been received and approved. Such motions, when in proper form, will be transmitted by the examiner of interferences, with the files and papers, to the proper primary examiner for his determination.

When the motion has been decided by the primary examiner, if no appeal has been taken therefrom, at the expiration of the time limited for appeal, the examiner will return the files and papers, with his decision, to the examiner of interferences. Such decision will be binding on the examiner of interferences unless reversed or modified on appeal. (Rule 124.)

1887—117.  
Motions to ef-  
fect stay of pro-  
ceedings.

123. All lawful motions, except those mentioned in Rule 122, will be made before and determined by the tribunal

having jurisdiction at the time. The filing of motions will not operate as a stay of proceedings in any case. To effect this, motion should be made before the tribunal having jurisdiction of the interference, who will, sufficient grounds appearing therefor, order a suspension of the interference pending the determination of such motion.

124. Appeal may be taken directly to the Commissioner from decisions of the primary examiner on all motions except the following: (1) On motions to dissolve which deny the patentability of applicant's claim; (2) on motions to dissolve which deny the right of an applicant to make the claim; (3) on motions involving the merits of the invention. Decisions on these motions, when appealable, go to the examiners-in-chief, and upon such appeals the party only whose claim is affected shall have the right to appear and be heard.

1887—118.  
Appeal to Commissioner.

To examiners-in-chief.

From a decision of the primary examiner affirming the patentability of the claim or the applicant's right to make the same no appeal can be taken.

125. After the interference is finally declared, it will not, except as herein otherwise provided, be determined without judgment of priority founded either upon the testimony, or upon a written concession of priority by one of the parties, signed by the inventor himself, (and by the assignee, if any,) or upon a written declaration of abandonment of the application, as provided by Rule 171.

1887—119.  
Determination.

Concession of priority.

126. The examiner of interferences or the examiners-in-chief may, either before or in their decision on the question of priority, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which, in their opinion, establishes the fact that no interference exists, or that there has been irregularity in declaring the same (Rule 122), or which amounts to a statutory bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may, before judgment on the question of priority, suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed. From the decision of the examiner appeal may be taken as in other cases. If the case shall not be so remanded, the primary examiner will, after judgment, consider any matter affecting the rights of either party to a patent which may have been called to his attention, unless the same shall have been previously disposed of by the Commissioner.

1887—120.  
Statutory bar suggested.

How determined.

127. A second interference will not be declared upon a new application for the same invention filed by either party.

1887—121.  
Second interference.

Vacation of  
judgment.

A decision will not be set aside after judgment, except in accordance with the principles governing the granting of new trials.

1887-122.  
Suspension of  
interference for  
consideration of  
new references.

128. If at any time during the pendency of an interference the primary examiner shall discover new or additional references, he may request a suspension of the interference proceeding until the pertinency of such references shall be determined. Upon such determination being made, the files and papers will be returned to the examiner of interferences, and the interference dissolved or reinstated in accordance with such decision. The consideration of such references shall be *ex parte*.

1887-123.  
For addition of  
new parties.

129. If during the pendency of an interference an application be filed for the subject-matter in issue, the primary examiner shall request the suspension of the interference for the purpose of adding the new application; but new parties will not be added after the taking of testimony without the special order of the Commissioner, whose attention shall be promptly called to the matter by the examiner.

1887-124.  
Amendments  
pending interference.

130. Amendments to the specification will not be received during the pendency of an interference, except as provided in Rules 106, 107, 109.

1887-127.  
Prosecution or  
defense by as-  
signee.

131. When, on motion duly made and upon satisfactory proof, it shall be shown that, by reason of the inability or refusal of the inventor to prosecute or defend an interference, or from other cause, the ends of justice require that an assignee of an undivided interest in the invention should be permitted to prosecute or defend the same, the Commissioner may so order.

Claims of de-  
feated parties.

132. Whenever an award of priority has been rendered in an interference proceeding by any tribunal, and the limit of appeal from such decision has expired, and whenever an interference has been terminated by reason of the written concession, signed by the applicant in person, of priority of invention in favor of his opponent or opponents, the primary examiner shall advise the defeated or unsuccessful party or parties to the interference that their claim or claims which were so involved in the issue stand finally rejected.

## APPEALS.

1887-128.  
Rev Stat., sec.  
4909.  
Appeal to ex-  
aminers-in-chief.

133. Every applicant for a patent, any of the claims of whose application have been twice rejected for the same reasons, upon grounds involving the merits of the invention, such as lack of invention, novelty, or utility, or on the ground of abandonment, public use or sale, inoperative-

ness of invention, aggregation of elements, incomplete combination of elements, or, when amended, for want of identity with the invention originally disclosed, or because the amendment involves a departure from the invention originally presented; and every applicant for the reissue of a patent, whose claims have been twice rejected for any of the reasons above enumerated, or on the ground that the original patent is not "inoperative or invalid," or if so inoperative or invalid that the errors which rendered it so did not arise from "inadvertence, accident, or mistake," may, upon payment of a fee of \$10, appeal from the decision of the primary examiner to the examiners-in-chief. The appeal must set forth in writing the points of the decision upon which it is taken, and must be signed by the applicant or his duly authorized attorney or agent.

134. There must have been two rejections of the claims as originally filed, or, if amended in matter of substance, of the amended claims, and all the claims must have been passed upon, and all preliminary and intermediate questions relating to matters not affecting the merits of the invention settled, before the case can be appealed to the examiners-in-chief.

1887—129.  
Prerequisites.

135. Upon the filing of the appeal the same shall be submitted to the primary examiner, who, if he find it to be regular in form, shall furnish the examiners-in-chief with a written statement of the grounds of his decision on all the points involved in the appeal, with copies of the rejected claims, and with the references applicable thereto. If the primary examiner shall decide that the appeal is not regular in form, a petition from such decision may be taken directly to the Commissioner, as provided in Rule 145.

1887—130.  
Examiner's  
statement of  
grounds of de-  
cision.

136. The appellant shall, before the day of hearing, file a brief of the authorities and arguments on which he will rely to maintain his appeal.

1887—131.  
Brief, when to  
be filed.

137. If the appellant desire to be heard orally before the examiners in-chief, he will so indicate when he files his appeal; a day of hearing will then be fixed, and due notice of the same given him.

1887—132.  
Oral hearing  
before examiners-in-chief.

138. In contested cases the appellant shall have the right to make the opening and closing arguments, unless it shall be otherwise ordered by the tribunal having jurisdiction of the case.

1887—133.  
Right to open  
and close.

139. (a) The examiners-in-chief in their decision will affirm or reverse the decision of the primary examiner only on the points on which appeal shall have been taken. (See

1887—134.  
Decision of ex-  
aminers-in-chief.  
Rev. Stat., sec.  
482.



Discovery of grounds for granting or refusing patent not involved in appeal.

Rule 133.) Should they discover any apparent grounds not involved in the appeal for granting or refusing letters patent in the form claimed, or in any other form, they will annex to their decision a statement to that effect, with such recommendation as they shall deem proper.

Appeal from primary examiner.

(b) From an adverse judgment of the primary examiner on points embraced in the recommendation annexed to the decision, appeal may be taken on questions involving the merits to the board of examiners-in-chief and on other questions to the Commissioner, as in other cases.

Amendment referred to primary examiner.

(c) The Commissioner may, when an appeal from the decision of the examiners-in-chief is taken to him, remand the case to the primary examiner, either before or after final judgment, for consideration of any amendment or action which may be based on the recommendation annexed to the decision of the examiners-in-chief.

Amendment based on discovery of Commissioner referred to primary examiner.

(d) If the Commissioner, in reviewing the decision of the examiners-in-chief, discovers any apparent grounds for granting or refusing letters patent not involved in the appeal, he will, before or after final judgment, and whenever in his opinion substantial justice shall require it, give reasonable notice thereof to the parties; and if any amendment or action based thereon be proposed, he will remand the case to the primary examiner for consideration.

Appeals.

(e) From decisions of the primary examiner, in cases remanded as herein provided, appeal will lie to the board of examiners-in-chief, or directly to the Commissioner, as in other cases.

1887—136.  
Rev. Stat., sec. 4910.

Appeal from examiners-in-chief to Commissioner.

140. From the adverse decision of the board of examiners-in-chief appeal may be taken to the Commissioner in person, upon payment of the fee of \$20 required by law.

1887—135.  
Application remanded for reconsideration on affidavits filed.

141. If affidavits be received after the case has been appealed, the application will be remanded to the primary examiner for reconsideration.

1887—137.  
Rehearings.

142. Cases which have been heard and decided by the Commissioner on appeal will not be re-opened except by his order; cases which have been decided by the examiners-in-chief will not be reheard by them, when no longer pending before them, without the written authority of the Commissioner; and cases which have been decided by either the Commissioner or the examiners-in-chief will not be reopened by the primary examiner without like authority, and then only for the consideration of matters not already adjudicated upon, sufficient cause being shown. (See Rule 68.)

1887—138.  
Jurisdiction.

143. Contested cases will be regarded as pending before a tribunal until the limit of appeal, which must be fixed,



has expired, or until some action has been had which waives the appeal or carries into effect the decision from which appeal might have been taken.

*Ex parte* cases decided by an appellate tribunal will, after decision, be remanded at once to the primary examiner, subject to the applicant's right of appeal, or such action as will carry into effect the decision, or for such further action as the applicant is entitled to demand.

144. Cases which have been deliberately decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials. 1887-139. Reconsideration of cases decided by former Commissioner.

145. Upon receiving a petition stating concisely and clearly any proper question, which has been twice acted upon by the examiner, and which does not involve the merits of the invention claimed, or the rejection of a claim, and also stating the facts involved and the point or points to be reviewed, an order will be made fixing a time for hearing such petition by the Commissioner, and directing the examiner to furnish a written statement of the grounds of his decision upon the matters averred in such petition at least five days before such day of hearing. No fee is required for such a petition. 1887-140. Petition to Commissioner, without fee.

146. In interference cases parties have the same remedy by appeal to the examiners-in-chief and to the Commissioner as in *ex parte* cases; but no appeal lies in such cases from the decision of the Commissioner. Defeated contestants in interferences may, however, have remedy by bill in equity. Report of examiner.

147. Appeals in interference cases must be accompanied by brief statements of the reasons therefor; and parties will be required to file briefs of their arguments before the day of hearing. 1887-141. Rev. Stat., secs. 4904, 4909, 4910, 4911. Rev. Stat., secs. 4911, 4915.

Printed briefs are required in all cases. Printed briefs.

148. From the adverse decision of the Commissioner upon the claims of an application an appeal may be taken to the supreme court of the District of Columbia sitting *in banc*. On taking such appeal, the applicant is required, under the rules of the court, to pay to the clerk of the court a docket-fee of \$10, and he is also required by law to lay before the court certified copies of all the original papers and evidence in the case. The petition should be filed and the fee paid at least ten days before the commencement of the term of court at which the appeal is to be heard. 1887-142. Appeals in interference cases. Reasons of appeal.

149. Immediately upon taking an appeal the appellant must give notice thereof to the Commissioner of Patents, and file in the Patent Office his reasons of appeal specifically set forth in writing. 1887-143. Rev. Stat., sec. 4912. Proceedings by appellant.

1887-145.  
Pro forma proceedings in Patent Office.

150. *Pro forma* proceedings will not be had in the Patent Office for the purpose of securing to applicants an appeal to the supreme court of the District of Columbia.

(For forms of appeals and rules of the supreme court of the District of Columbia respecting appeals, see Appendix, Forms 34, 36.)

### HEARINGS AND INTERVIEWS.

1887-146.  
Hour of hearing.

151. Hearings will be had by the Commissioner at 10 o'clock a. m., and by the board of examiners-in-chief and the examiner of interferences at 1 o'clock p. m., on the day appointed, unless some other hour be specially designated. If either party in a contested case, or the appellant in an *ex parte* case, appear at the proper time, he will be heard. After the day of hearing a contested case will not be taken up for oral argument except by consent of all parties. If the engagements of the tribunal having jurisdiction are such as to prevent the case from being taken up on the day of hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the tribunal having jurisdiction of the case; and all interviews for this purpose with parties in interest or their attorneys will be invariably denied.

1887-147.  
Interviews with examiners.

152. Interviews with examiners concerning applications and other matters pending before the office must be had in the examiners' rooms at such times, within office hours, as the respective examiners may designate; in the absence of the primary examiners, with the assistant in charge. Interviews will not be permitted at any other time or place without the written authority of the Commissioner. Interviews for the discussion of pending applications will not be had prior to the first official action thereon.

1887-148.

### MOTIONS.

1887-149.  
Notice.

Proof of service.

Jurisdiction.

153. In contested cases reasonable notice of all motions, and copies of motion-papers and affidavits, must be served, as provided in Rule 154 (2). Proof of such service must be made before the motion will be entertained by the office. Motions will not be heard in the absence of either party except upon default after due notice. Motions will be heard in the first instance by the officer or tribunal before whom

the particular case may be pending; but an appeal from the decision rendered may be taken on questions involving the merits of the case to the board of examiners-in-chief; on other questions, directly to the Commissioner. In original hearings, on motions, the moving parties shall have the right to make the opening and closing arguments. In contested cases the practice on points to which the rules shall not be applicable will conform, as nearly as possible, to that of the United States courts in equity proceedings.

Right to open and close.

Equity practice in cases to which rules do not apply.

### TESTIMONY IN EXTENSIONS, INTERFERENCES, AND OTHER CONTESTED CASES.

154. The following rules have been established for taking and transmitting testimony in extensions, interferences, and other contested cases:

1887-150.  
Rev. Stat., sec. 4905.

- (1) Before the depositions of witnesses are taken by either party due notice shall be given to the opposing party, as hereinafter provided, of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined, and the opposing party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice. Neither party shall take testimony in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other can not be had.

Notice.

Waiver.

Reasonable time for travel.

- (2) The notice for taking testimony or for motions must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, upon the adverse party. Reasonable time must be given therein for such adverse party to reach the place of examination. Service of such notice may be made in either of the following ways: (1) By delivering a copy of the notice to the adverse party or his attorney; (2) by leaving a copy at the usual place of business of the adverse party

Service of notice.

or his attorney with some one in his employment; (3) when such adverse party or his attorney has no usual place of business, by leaving a copy at his residence, with a member of his family over fourteen years of age and of discretion; (4) transmission by registered letter; (5) by express. Whenever it shall be satisfactorily shown to the Commissioner that neither of the above modes of obtaining or reserving notice is practicable, the notice may be published in the Official Gazette. Such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not.

Official certificate.

- (3) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition shall be taken. The deposition shall be carefully read over by the witness, or by the officer to him, and shall then be subscribed by the witness in the presence of the officer. The officer shall annex to the deposition his certificate showing (1) the due administration of the oath by the officer to the witness before the commencement of his testimony; (2) the name of the person by whom the testimony was written out, and the fact that, if not written by the officer, it was written in his presence; (3) the presence or absence of the adverse party; (4) the place, day, and hour of commencing and taking the deposition; and (5) the fact that the officer was not connected by blood or marriage with either of the parties, nor interested, directly or indirectly, in the matter in controversy. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. He shall then, without delay, securely seal up all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate, giving the title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall be authenticated by the officer and transmitted in a separate package, marked and addressed as above provided.

Depositions to be sealed up, addressed, and forwarded to Commissioner.

Exhibits.

*Ex parte* proofs in extension cases.

- (4) In cases of extension, when no opposition shall be made, *ex parte* testimony will be received from the

applicant; and such testimony as may have been taken by the applicant prior to notice of opposition will be received, unless taken within thirty days after filing the petition for the extension. But upon receiving notice of opposition the applicant shall immediately give notice to the opposing party or parties of the names and residences of the witnesses whose testimony shall have been thus taken.

- (5) If a party shall be unable to take any testimony within the time limited and desires an extension for such purpose he must file a motion, accompanied by a statement under oath setting forth specifically the reasons why such testimony has not been taken, and distinctly averring that such motion is made in good faith, and not for the purposes of delay. If either party shall be unable to procure the testimony of a witness or witnesses within the time limited, and desires an extension for such purpose, he must file a motion, accompanied by a statement under oath setting forth the cause of such inability, the name or names of such witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it. (See Rule 153.) Motion to extend time for taking testimony.
- (6) When a party relies upon a caveat to establish the date of his invention, the caveat itself, or a certified copy thereof, must be filed in evidence, with due notice to the opposite party. Caveat as evidence.  
Rev. Stat., sec. 692.
- (7) Upon notice given to the opposite party before the closing of the testimony, any official record, and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be used as evidence at the hearing. Official records and special matter offered in evidence.

155. The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony must be written upon legal-cap or foolscap paper, with a wide margin on the left-hand side of the page, and with the writing on one side only of the sheet.

1887-151.  
Formalities.

156. The testimony will be taken in answer to interrogatories, with the questions and answers committed to writing in their regular order by the officer, or, in his presence, by some person not interested in the case, either as a party

1887-152.  
Formalities.



thereto or as attorney. But, with the written consent of the parties, the depositions may be written out by other persons in the presence of the officer. No officer who is connected by blood or marriage with either of the parties, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent, or otherwise, is competent to take depositions, unless with the written consent of all the parties.

Testimony taken in one interference may be used in another.

157. By leave of the Commissioner, first obtained, testimony taken in an interference proceeding may be used in any other or subsequent interference proceeding, so far as relevant and material, subject, however, to the right of any contesting party to recall witnesses whose depositions have been taken, and to take other testimony in rebuttal of the depositions.

1887-153.  
Rev. Stat., sec.  
4905.

Testimony taken in foreign countries.

Motion.

158. By leave of the Commissioner, first obtained, testimony may be taken in foreign countries, upon complying with the following requirements:

- (1) Such permission will be granted only upon motion duly made. (See Rule 153.) The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement under oath that the motion is made in good faith, and not for purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.
- (2) It must appear that the testimony desired is material and competent, and that it can not be taken in this country at all, or can not be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.
- (3) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness, and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the

Motion.

Interrogatories.

Cross-interrogatories.

Objections.



depositions are taken, and such objections will be considered and determined upon the hearing of the case.

- (4) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answer thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents, with the certificate prescribed in Rule 154 (3). Papers sent to proper officer.
- (5) By stipulation of the parties the requirements of paragraph 3 as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties or their agents. Stipulations.
- (6) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury under the laws of the foreign state where it shall be taken, it will not stand on the same footing in the Patent Office as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case. Weight of testimony taken in foreign countries.

159. Evidence touching the matter at issue will not be considered on the hearing which shall not have been taken and filed in compliance with these rules. But notice will not be taken of merely formal or technical objections which shall not appear to have wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof to the office, and also to the opposite party, informing him at the same time that, unless it should be removed, he (the objector) should urge his objection at the hearing. This rule is not to be so construed as to modify established rules of evidence, which will be applied strictly in all practice before the office. 1887-154.  
Evidence on hearing.  
  
Formal objections to evidence.

160. The law requires the clerks of the various courts of the United States to issue subpoenas to secure the attend- 1887-155.  
Rev. Stat., sec. 4906.  
Subpoenas.

ance of witnesses whose depositions are desired as evidence in contested cases in the Patent Office.

1887—156.  
Inspection.

161. After testimony is filed in the office it may be inspected by any party to the case, but it can not be withdrawn for the purpose of printing. It may be printed by some one specially designated by the office for that purpose, under proper restrictions.

Printing.

1887—157.  
Copies of tes-  
timony.

162. Six or more printed copies of the testimony must be furnished—five for the use of the office and one for each of the opposing parties. The preliminary statement required by Rule 110 must be printed as a part of the record. These copies must be filed not less than one week before the day of hearing. They will have wide margins, with the names of the witnesses at the top of the pages over their testimony, and will contain indexes with the names of all witnesses and reference to the pages where their testimony may be found, and also to the pages where copies of papers and documents introduced as exhibits are shown.

Printing dis-  
pensed with.

When it shall appear, on motion duly made and by satisfactory proof, that a party, by reason of poverty, is unable to print his testimony, such printing will be dispensed with. In such case manuscript copies must be furnished—one for the office and one for each adverse party. Printing of the testimony can not be dispensed with upon the stipulation of the parties to the proceeding.

1887—158.  
Filing of briefs  
and arguments.

163. It is desirable that arguments and briefs in all contested cases shall be submitted in printed form and filed before the hearing. If either party fail to comply with this regulation, no extension of time will be granted for the purpose, except upon consent of the adverse parties.

## ISSUE.

1887—159.  
Notice of al-  
lowance.

Rev. Stat., secs.  
4885, 4893, 4897.

164. If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him or his attorney, calling for the payment of the final fee within six months from the date of such notice of allowance, upon the receipt of which within the time fixed by law the patent will be prepared for issue. (See Rules 221, 222.)

Withdrawal  
from issue.

165. After notice of the allowance of an application is given, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the office a new notice of allowance will be given. When the final fee has been paid upon an application for letters patent, and the case has received its

1887—160.  
New notice.

date and number, it will not be withdrawn or suspended from issue on account of any mistake or change of purpose of the applicant or his attorney, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reason except mistake on the part of the office, or because of fraud, or illegality in the application, or for interference. (See Rule 78.)

166. Whenever the Commissioner shall direct the withdrawal of an application from issue on request of an applicant, for reasons not prohibited by Rule 165, such withdrawal shall not operate to stay the period of two years running against the application, which shall begin to attach from the date of the notice of allowance.

Withdrawal from issue will not stay abandonment.

### DATE, DURATION, AND FORM OF PATENTS.

167. Every patent will bear date as of a day not later than six months from the time the application was passed and allowed and notice thereof was mailed to the applicant or his attorney, if within that period the final fee be paid to the Commissioner of Patents, or if it be paid to the Treasurer or any of the assistant treasurers or designated depositaries of the United States, and the certificate promptly forwarded to the Commissioner of Patents; and if the final fee be not paid within that period, the patent will be withheld. (See Rule 175.)

1887-161.  
Rev. Stat., secs.  
4885, 4935.  
Date of patent.

Final fee.

Patent withheld.

A patent will not be antedated.

Not antedated.

168. Every patent will contain a short title of the invention or discovery, indicating its nature and object, and a grant to the patentee, his heirs and assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and the Territories thereof. But if the invention has been previously patented abroad, the term of the patent will expire with the term of the foreign patent. The duration of a design patent may be for the term of three and a half, seven, or fourteen years, as provided in Rule 80. A copy of the specification and drawings will be annexed to the patent and form part thereof.

1887-162.  
Rev. Stat., sec.  
4884.

Title of the invention.  
Grant.  
Term.  
Expiration in case of foreign patent.

Term of design patent.

### DELIVERY.

169. The patent will be delivered or mailed on the day of its date to the patentee, unless there be an attorney of record, in which case it will be delivered to him or the patentee, as the attorney may request; but it will not, without a special request from the applicant, be delivered to an associate or substitute attorney.

1887-163.  
Delivery of patent.

## CORRECTION OF ERRORS IN LETTERS PATENT.

1887—164.  
Correction of  
mistakes in-  
curred through  
fault of the office.

170. Whenever a mistake incurred through the fault of the office is clearly disclosed by the records or files of the office, a certificate, stating the fact and nature of such mistake, signed by the Secretary of the Interior, countersigned by the Commissioner of Patents, and sealed with the seal of the Patent Office, will, at the request of the patentee or his assignee, be indorsed without charge upon the letters patent, and recorded in the records of patents, and a printed copy thereof attached to each printed copy of the specification and drawings.

Reissue.

Whenever a mistake incurred through the fault of the office constitutes a sufficient legal ground for a reissue, such reissue will be made, for the correction of such mistake only, without charge of office fees, at the request of the patentee.

Not incurred  
through fault of  
the office.

Mistakes not incurred through the fault of the office, and not affording legal grounds for reissues, will not be corrected after the delivery of the letters patent to the patentee or his agent.

Changes or corrections will not be made in letters patent after the delivery thereof to the patentee or his attorney, except as above provided.

## ABANDONED, FORFEITED, REVIVED, AND RENEWED APPLICATIONS.

1887—165.  
Rev. Stat., sec.  
4894.  
Abandoned ap-  
plication.

171. An abandoned application is one which has not been completed and prepared for examination within two years after the filing of the petition, or which the applicant has failed to prosecute within two years after any action therein, of which notice has been duly given (see Rules 31 and 77), or which the applicant has expressly abandoned by filing in the office a written declaration of abandonment, signed by himself (and assignee, if any), identifying his application by title of invention, serial number, and date of filing. (See Rule 60.)

Prosecution.

Prosecution of an application to save it from abandonment must include such proper action as the condition of the case may require.

1887—166.  
Revival appli-  
cation.  
Rev. Stat., sec.  
4894.

172. Before an application abandoned by failure to complete or prosecute can be revived as a pending application, it must be shown to the satisfaction of the Commissioner that the delay in the prosecution of the same was unavoidable.

173. When a new application is filed in place of an abandoned or rejected application, a new specification, oath, drawing, and fee will be required; but the old model, if suitable, may be used. 1887-167. Substitute applications.

174. A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See Rule 167.) 1887-168. Forfeited or withheld application.

175. When the patent has been withheld by reason of non-payment of the final fee, any person, whether inventor or assignee, who has an interest in the invention for which such patent was ordered to issue, may file a renewal of the application for the same invention; but such second application must be made within two years after the allowance of the original application. Upon the hearing of such new application abandonment will be considered as a question of fact. 1887-169. Rev. Stat., sec. 4897. New application after non-payment of final fee.

176. In such renewal the oath, petition, specification, drawing, and model of the original application may be used for the second application; but a new fee will be required. The second application will not be regarded for all purposes as a continuation of the original one, but must bear date from the time of renewal, and be subject to examination like an original application. 1887-170. Renewal. Old application papers may be used.

177. Forfeited and abandoned applications will not be cited as references. 1887-171. Not cited as references.

178. Notice of the filing of subsequent applications will not be given to applicants while their cases remain forfeited. 1887-171. No notice of subsequent applications.

179. Copies of the files of rejected and abandoned applications may be furnished when ordered by the Commissioner. The requests for such copies must be presented in the form of a petition properly verified as to all matters not appearing of record in the Patent Office. (See Form 52.) 1887-171. Copies and inspection.

### EXTENSIONS.

180. Patents can not be extended except by act of Congress. 1887-172. Rev. Stat., sec. 4924.

181. When an application for the extension of a patent has been referred to the Commissioner of Patents by Congress, proceedings will be instituted and conducted in accordance with the following rules: 1887-173. Proceedings.

182. The applicant for an extension must furnish to the office a statement in writing, under oath, of the ascertained value of the invention, and of his receipts and expenditures on account thereof, both in this and in foreign countries. 1887-176. Sworn statement of applicant.



Rev. Stat., sec. 4924. This statement must be detailed and particular, unless sufficient reasons are shown for a failure to make it so. It must in all cases be filed with the petition.

1887-177. Abstract of title. Rev. Stat., sec. 4928. 183. Such statement must also be accompanied by a certified abstract of title and a declaration under oath setting forth the extent of the applicant's interest in the extension sought.

1887-178. Questions involved. in. 184. The questions which arise on each application for an extension are :

- Rev. Stat., sec. 4927.
- (1) Was the invention new and useful when patented ?
  - (2) Is it valuable and important to the public, and to what extent ?
  - (3) Has the inventor been reasonably remunerated for the time, ingenuity, and expense bestowed upon the invention, and upon its introduction into use ? If not, has his failure to be so remunerated arisen from neglect or fault on his part ?
  - (4) What will be the effect of the proposed extension upon the public interests ?

1887-179. Proof on first point. 185. Proof will not be required from the applicant upon the first question unless the invention is assailed upon those points by opponents.

1887-180. On second point. 186. To enable the Commissioner to reach a correct conclusion in regard to the second point of inquiry, the applicant must, if possible, present the testimony of disinterested persons taken under oath. This testimony must distinguish carefully between the specific devices covered by the claims of the patent and the general machine in which those devices may be incorporated.

1887-181. On third point. 187. Upon the third point of inquiry the applicant, having by his own oath shown his receipts and expenditures on account of the invention, must also show, by testimony under oath, that he has taken all reasonable measures to introduce his invention into general use; and that, without neglect or fault on his part, he has failed to obtain from the use and sale of the invention a reasonable remuneration for the time, ingenuity, and expense bestowed on the same, and on its introduction into use.

1887-174. Opponent. Notice. 188. Any person may oppose an application for extension; but notice in writing of such opposition must be given to the applicant or his attorney of record within the time hereinafter named, with a statement of the reasons of opposition. After such notice the opponent will be regarded as a party in the case, and will be entitled to notice of the time and place of taking testimony, to a list of the names and

Reasons.

Rights of opponent.



residences of the witnesses whose testimony may have been taken before service of his notice of opposition, and to a copy of the application and of any other papers on file, upon payment of the cost thereof. He must also immediately file a copy of such notice and reasons of opposition, with proof of service of the same, in the Patent Office.

Filing copy of  
notice and rea-  
sons.

189. If the extension be opposed on the ground of lack of novelty in the invention, the reasons of opposition must contain a specific statement of any and all matter relied upon for this purpose.

1887-175.  
Lack of nov-  
elty.

190. Any person desiring to oppose an extension must serve his notice of opposition, and file his reasons therefor, at least ten days before the day fixed for the closing of the testimony; but parties who have not entered formal opposition in time to put in testimony may, at the discretion of the Commissioner, be permitted to appear on the day of hearing and make argument upon the record in opposition to the grant of the extension. In such case good cause for the neglect to make formal opposition must be shown.

1887-183.  
Service of no-  
tice of opposition  
and filing of rea-  
sons.

191. In case of opposition to the extension of a patent both parties may take testimony, each giving reasonable notice to the other of the time and place of taking the same. The testimony will be taken according to the rules hereinbefore prescribed.

1887-182.  
Rules for tak-  
ing testimony.

192. In contested cases no testimony will be received, unless by consent, which has been taken within thirty days next after the filing of the petition for the extension. (See Rule 154 (4).)

1887-184.  
Testimony ex-  
cluded.

193. Service of notice to take testimony must be made as provided in Rule 154 (2). Where notice to take testimony has already been given to an opponent, and a new opponent subsequently gives notice of his intention to oppose, the examination need not be postponed, but notice thereof may be given to such subsequent opponent by mail or by telegraph. But this rule does not apply to *ex parte* examinations, nor to those of which notice is not given before service of notice of opposition.

1887-185.  
Service of no-  
tice to take testi-  
mony.

New opponent.

194. In the notice of application for extension a day will be fixed for the closing of testimony, and the day of hearing will also be named. Applications for postponement of the day of hearing, or for further time for taking testimony, must be made and supported in accordance with the rules to be observed in other contested cases; but no postponement will be granted whereby any risk may be incurred of delaying the decision until the expiration of the patent.

1887-186.  
Day of hearing.

Rev. Stat., sec.  
4925.  
Postponement.

Rev. Stat., sec. 4926. Reference to examiner. Arguments. Briefs.

Upon the closing of the testimony the application will be referred without delay to the examiner in charge of the class to which the invention belongs for the report required by law; and such report shall be made not less than five days before the day of hearing. As this report is intended for the information of the Commissioner, neither the parties nor their attorneys will be permitted to make oral arguments before the examiner. In contested cases briefs are deemed desirable, and these should always be filed at least five days before the day of hearing.

### DISCLAIMERS.

1887-187. Rev. Stat., sec. 4917, 4922. Grounds, form, and effect.

195. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed as his invention or discovery more than he had a right to claim as new, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law (ten dollars), make disclaimer of such parts of the thing patented as he or they shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of filing the same, except as to the question of unreasonable neglect or delay in filing it.

1887-188. Different kinds of disclaimers.

196. Such disclaimer must be distinguished from those which are embodied in original or reissue applications, as first filed or subsequently amended, referring to matter shown or described, but to which the disclaimant does not choose to claim title, and also from those made to avoid the continuance of an interference. Such disclaimers must be signed by the applicant in person and must be duly witnessed, and require no fee. (See Rule 107. For forms of disclaimers, see Appendix, Forms 27, 28.)

## CAVEATS.

197. A caveat, under the patent law, is a notice given to the Patent Office of the caveator's claim as inventor, in order to prevent the grant of a patent to another person for the same alleged invention upon an application filed during the life of the caveat without notice to the caveator.

1887—189.  
Definition.

198. Any citizen of the United States who has made a new invention or discovery and desires further time to mature the same may, on payment of a fee of ten dollars, file in the Patent Office a caveat setting forth the object and the distinguishing characteristics of the invention, and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof.

1887—190.  
Rev. Stat., sec.  
4902.  
Qualification of  
caveator.

199. The caveat may be renewed, on request in writing, by the payment of a second caveat fee of ten dollars, and it will continue in force for one year from the date of the payment of such second fee. Subsequent renewals may be made with like effect. If a caveat be not renewed, it will be preserved in the secret archives of the office.

Preserved in  
secrecy.

1887—197.  
Renewal.

200. An alien has the same privilege, if he has resided in the United States one year next preceding the filing of his caveat, and has made oath of his intention to become a citizen.

1887—191.  
Resident alien.  
Rev. Stat., sec.  
4902.

201. The caveat must comprise a specification, oath, and, when the nature of the case admits of it, a drawing, and, like an application for a patent, must be limited to a single invention or improvement.

1887—192.  
Requisites.

202. The same particularity of description is not required in a caveat as in an application for a patent; but the caveat must set forth the object of the invention and the distinguishing characteristics thereof, and it should be sufficiently precise to enable the office to judge whether there is a probable interference when a subsequent application is filed for a similar invention. If, upon examination, a caveat be found defective in this respect, amendment will be required. Without compliance with Rules 198, 201, 202, and 204, the caveator will not be entitled to the notice provided for in Rule 205.

1887—193.  
Particularity  
of description.  
Rev. Stat., sec.  
4902.

Amendment.

203. The oath of the caveator must set forth that he is a citizen of the United States, or, if he be an alien, that he has resided for one year next preceding within the United States, and has made oath of his intention to become a citi-

1887—194.  
Oath.  
Rev. Stat., sec.  
4902.

zen thereof, and that he believes himself the original and first inventor of the art, machine, or improvement set forth in his caveat.

1887—195.  
Drawings.

204. The caveat should be accompanied when practicable by full and accurate drawings, separate from the specification, well executed on tracing muslin or paper that may be folded. (See Rule 51.)

1887—196.  
Rev. Stat., sec.  
4902.

205. If at any time within one year after the filing or renewal of a caveat another person shall file an application for an invention which would in any manner interfere with the invention set forth in such caveat, and if the inventor be found patentable, then such application will be suspended and notice thereof will be sent to the person filing the caveat.

Notice of interfering application.

If the caveator shall file a complete application within the time prescribed, he will be entitled to an interference with the previous application, for the purpose of proving priority of invention, and obtaining the patent if he be adjudged the prior inventor. The caveator, if he would avail himself of his caveat, must file his application within three months from the expiration of the time regularly required for the transmission to him of the notice deposited in the post office at Washington. The day on which the time for filing expires will be mentioned in the notice or indorsed thereon.

Application by caveator.

1887—197.  
No notice of application pending or filed after expiration of one year.

206. The caveator will not be entitled to notice of any application pending at the time of filing his caveat, nor of any application filed after the expiration of one year from the date of the filing or renewal thereof.

1887—198.  
Effect of caveat.

207. A caveat confers no rights and affords no protection except as to notice of an interfering application filed during its life, giving the caveator the opportunity of proving priority of invention if he so desires. It may be used as evidence in contests, as provided in Rule 154 (6).

1887—199.  
Assignment.

208. There is no provision of law making the caveat assignable, although the alleged invention therein set forth is assignable, and the caveat may be used as means of identifying the invention transferred in an assignment.

1887—200.  
Withdrawal.  
Copies.

209. Caveat papers can not be withdrawn from the office after they have been filed; but copies of the papers may be obtained at the usual rates by the caveator or any person duly authorized by him. Additional papers, if containing new matter, must be filed as a separate caveat with another fee. (For caveat forms, see Appendix, Forms 10, 16.)

## ASSIGNMENTS.

210. Every patent or any interest therein shall be assignable in law by an instrument in writing; and the patentee or his assigns or legal representatives may, in like manner, grant and convey an exclusive right under the patent to the whole or any specified part of the United States.

1887—201.  
Rev. Stat., sec.  
4893.  
Assignability  
of patents.

211. Interests in patents may be vested in grantees of exclusive sectional rights, in mortgagees, and in licensees.

1887—202.  
In whom may  
be vested.

- (1) An assignee is a transferee of the whole interest of the original patent, or of an undivided part of such whole interest, extending to every portion of the United States. The assignment must be written or printed and duly signed. Assignees.
- (2) A grantee acquires by the grant the exclusive right, under the patent, to make and use, and to grant to others the right to make and use, the thing patented, within and throughout some specified part of the United States, excluding the patentee therefrom. The grant must be written or printed and be duly signed. Grantees.
- (3) A mortgage must be written or printed and be duly signed. Mortgagees.
- (4) A licensee takes an interest less than or different from either of the others. A license may be oral, written, or printed, and if written or printed must be duly signed. Licensees.

212. An assignment, grant, or conveyance of a patent will be void as against any subsequent purchaser or mortgagee for a valuable consideration without notice unless recorded in the Patent Office within three months from the date thereof.

1887—203.  
Rev. Stat., sec.  
4898.  
Record.

213. No instrument will be recorded which does not, in the judgment of the Commissioner, amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates. Such instrument should identify the patent by date and number; or, if the invention be unpatented, the name of the inventor, the serial number, and date of the application should be stated.

1887—204.  
Record.

214. Assignments which are made conditional on the performance of certain stipulations, as the payment of money, if recorded in the office, are regarded as absolute assignments, until canceled with the written consent of both parties, or by the decree of a competent court. The office has

1887—205.  
Conditional as-  
signments.



no means for determining whether such conditions have been fulfilled.

1887—206.  
Issue to as-  
signee.

215. In every case where it is desired that the patent shall issue to an assignee, the assignment must be recorded in the Patent Office at a date not later than the day on which the final fee is paid. (See Rule 26.) The date of the record is the date of the receipt of the assignment at the office.

Date of receipt  
is date of record.

1887—207.  
Receipt, record,  
and return of as-  
signments.

216. The receipt of assignments is generally acknowledged by the office. They are recorded in regular order as promptly as possible, and then transmitted to the persons entitled to them. (For form of assignment, see Appendix, Forms 37-42.)

### OFFICE FEES.

1887—208.  
Payable in ad-  
vance.

217. Nearly all the fees payable to the Patent Office are positively required by law to be paid in advance—that is, upon making application for any action by the office for which a fee is payable. For the sake of uniformity and convenience, the remaining fees will be required to be paid in the same manner:

Rev. Stat., sec.  
4893.

Schedule.

218. The following is the schedule of fees and of prices of publications, etc., of the Patent Office:

Rev. Stat., sec.  
4934.

On filing each original application for a design patent for three years and six months.....	\$10.00
On filing each original application for a design patent for seven years.....	15.00
On filing each original application for a design patent for fourteen years .....	30.00
On allowance of an application for a design patent, no further charge.	
On filing each caveat.....	10.00
On filing each original application for a patent....	15.00
On allowance of an original application for a patent, except in design cases .....	20.00
On filing disclaimer .....	10.00
On filing every application for the reissue of a patent .....	30.00
On filing each application for a division of a reissue.	30.00
On allowance of an application for the reissue of a patent, no further charge.	
On filing every application for an extension of a patent .....	50.00
On the granting of every extension of a patent....	50.00
On filing an appeal from a primary examiner or the examiner of interferences to the examiners-in-chief .....	10.00



On filing an appeal from the examiners-in-chief to the Commissioner .....	\$20. 00
For manuscript copies of records in the English language, for every one hundred words or fraction thereof .....	. 10
If certified, for the certificate, additional .....	. 25
For copies of drawings not in print, the reasonable cost of making them.	
For uncertified copies of the specifications and accompanying drawings of all patents which are in print:	Rev. Stat., sec. 493.
Single copies .....	. 25
Twenty copies or more, whether of one or several patents, per copy .....	. 10
For twenty coupon orders, each coupon good until used for one copy of a printed specification and drawing* .....	2. 00
For certified copies of patents, whether in manuscript or in print:	
For the specification, for every one hundred words or fraction thereof .....	. 10
For the drawings, if in print .....	. 25
For the drawings, if not in print, the reasonable cost of making them, as above.	
For the certificate .....	. 25
For the grant .....	. 50
For certifying to a duplicate of a model .....	. 50
For abstracts of title to patents or inventions:	
For the certificate of search .....	1. 00
For each brief from the digests of assignments.	. 20
For copies of matter in any foreign language, for every one hundred words or fraction thereof ....	. 20
For translation, for every one hundred words or fraction thereof .....	. 50
For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under .....	1. 00
For recording every assignment, agreement, power of attorney, or other paper of over three hundred words and under one thousand words .....	2. 00

\* NOTE.—For the convenience of the office and of persons desiring printed copies of specifications and drawings, blank orders, or “coupons,” have been prepared, which will be sold, on application to the chief clerk, at the rate of 10 cents each, in lots of 20 or more. Stub-books containing 50 or 100 such orders can be furnished at the same rate.

For recording every assignment, agreement, power of attorney, or other paper of over one thousand words .....	\$3.00
For assistance to attorneys and others in the examination of records, one hour or less .....	.50
Each additional hour or fraction thereof .....	.50
For assistance to attorneys in the examination of patents or other matter in the scientific library, one hour or less. ....	1.00
Each additional hour or fraction thereof.....	1.00
For subscription to the Official Gazette, published every Tuesday, all subscriptions to commence with the beginning of a volume, none being taken for a less period than three months, and there being no club rates or discount to newsdealers, as follows :	
To all subscribers within the United States and Canada, one year .....	5.00
To foreign subscribers, except in Canada .....	7.00
Single numbers.....	.10
For bound volumes of the Official Gazette :	
Semi-annual volumes, from January 1, 1872, to June 30, 1883, full sheep binding, per volume..	4.00
Semi-annual volumes, from January 1, 1872, to June 30, 1883, half sheep binding, per volume..	3.50
Quarterly volumes subsequent to July 1, 1883, full sheep binding, per volume .....	2.75
For the annual index—lists of patentees and inventions, alphabetically arranged, with date of patent, number, etc., from January, 1872—one volume each year, full law binding, per volume.....	2.00
In paper covers, per volume .....	1.00
For the general index—a list of inventions patented from 1790 to 1873, with the name of inventor, residence, date of patent, number, etc.—three volumes, full law binding, per set .....	10.00
For the index from 1790 to 1836—a list of inventions patented from 1790 to 1836, photolithographed from Patent Office Reports—one volume, full law binding .....	5.00
For the monthly volumes, containing the specifications and photolithographed copies of the drawings of all patents issued during the month, certified, bound full sheep, per volume .....	12.00

For the monthly volumes, containing the specifications and photolithographed copies of the drawings of all patents issued during the month, certified, bound half sheep, per volume.....	\$10.00
For the Index to Patents Relating to Electricity, granted by the United States prior to June 30, 1882, one volume, two hundred and fifty pages, bound.....	5.00
In paper covers.....	3.00
Annual appendixes for each fiscal year subsequent to June 30, 1882, paper covers.....	1.50
For Commissioners' Decisions:	
For 1869-'70-'71, bound in one volume, full law binding.....	2.00
For 1872-'73-'74, bound in one volume, full law binding.....	2.00
For 1875-'76, bound in one volume, with decisions of United States courts in patent cases, full law binding.....	2.00
For 1875-'76, bound in paper covers.....	1.00
For 1877-'78-'79-'80-'81-'82-'83, one volume <i>each year</i> , with decisions of United States courts, full law binding, per volume.....	2.00
For 1877-'78-'79-'80-'81-'82-'83, bound in paper covers.....	1.00
Pamphlet of the Rules of Practice.....	Free.
Pamphlet of the patent laws.....	Free.

There are no annual reports for gratuitous distribution.

219. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the inventor; otherwise an extra charge will be made for the time consumed in making any search for such assignment.

1887-210.  
Orders for  
copies.

220. Persons will not be allowed to make copies or tracings from the files or records of the office. Such copies will be furnished, when ordered, at the rates already specified.

1887-211.  
Copies and  
tracings made by  
office only.

221. The money required for office fees may be paid to the Commissioner, or to the Treasurer or any of the assistant treasurers of the United States, or to any of the depositaries, national banks, or receivers of public money designated by the Secretary of the Treasury for that purpose, who shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the Patent Office. When this can not be done without much inconvenience, the money may be remitted by mail,

1887-212.  
Rev. Stat., sec.  
4935.  
Mode of pay-  
ment.

Registered letters.  
Money orders.

and in every such case the letter should state the exact amount inclosed. Letters containing money may be registered. Post-office money orders afford a safe and convenient mode of transmitting fees. All such orders should be made payable to the "Commissioner of Patents."

1887-213.  
Weekly issue  
and final fee.

222. The weekly issue closes on Thursday, and the patents of that issue bear date as of the third Tuesday thereafter. If the final fee in any application is not paid on or before Thursday, the patent will not go to issue until the following week.

1887-214.  
Remittances by  
mail.

223. All money sent by mail, either to or from the Patent Office, will be at the risk of the sender. In no case should money be sent inclosed with models. All payments to the office must be made in specie, treasury notes, national-bank notes, certificates of deposit, post-office money orders, postal notes, or certified checks.

Funds.

#### REPAYMENT OF MONEY.

1887-215.  
Rev. Stat., sec.  
4936.  
Money paid by  
mistake re-  
funded.

224. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect or misinformation on the part of the office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent or for the registration of a trade-mark, or to withdraw an appeal, will not entitle a party to demand such a return.

#### PUBLICATIONS.

1887-216.  
Rev. Stat., sec.  
489.  
Official Gazette.  
Contents.

225. The Official Gazette, a weekly publication which has been issued since 1872, takes the place of the old Patent Office Report. It contains the claims of all patents (except for designs) issued, including reissues, with portions of the drawings selected to illustrate the invention claimed, and also lists of design patents. It also contains decisions rendered by the courts in patent cases and by the Commissioner of Patents, and other special matters of interest to inventors.

Subscription.

The Gazette is furnished to subscribers at the rate of \$5 per annum. When sent abroad an additional charge of \$2 is made for the payment of postage. Representatives and Senators are each entitled to a copy, and each is entitled to designate eight public libraries to which the Gazette will be sent without charge. Single copies are furnished for ten cents each.

Public libraries.  
Single copies.

Annual index.

An index is published annually, which is sent to all subscribers and designated libraries without additional cost.

Printed volumes are issued monthly containing the entire specifications and drawings of all patents issued during the previous month. These are authenticated by the seal of the office, and may be used as evidence throughout the United States. One copy is deposited in the Library of Congress and in each State and Territorial library, and one copy in the custody of the clerk of each United States district court, for general reference.

Rev. Stat., sec. 490.  
Monthly volumes.  
Authentication.

Depositories.

### LIBRARY REGULATIONS.

226. Officers of the bureau and members of the examining corps, only, are allowed to enter the alcoves or take books from the Scientific Library.

1887—217.  
Rev. Stat., sec. 486.  
Removal of books.

Books taken from this library must be entered in a register kept for the purpose, and returned on the call of the librarian.

Registration and return.

Any book lost or defaced must be replaced by a new copy.

Loss or injury.

Patentees and others doing business with the office can examine the books only in the library hall.

Use by the public.

Translations will be made only for official use.

Translations.

Persons will be allowed to make notes or extracts, but not copies or tracings, from works in the library. Such copies will be furnished at the usual rates.

Extracts, copies, and tracings.

### AMENDMENTS OF THE RULES.

227. All amendments of the foregoing rules will be published in the Official Gazette.

1887—218.

### APPLICATIONS UNDER THE INTERNATIONAL UNION FOR THE PROTECTION OF INDUSTRIAL PROPERTY.

228. An applicant who shall have regularly deposited an application for a patent of invention, of an industrial model or design, in any foreign country that is a party to the International Union for the Protection of Industrial Property provided for in the convention and final protocol mentioned and defined in the proclamation of the President of the United States of date June 11, 1887, and who shall present to be filed in the Patent Office of the United States his application for a patent for the same invention, and ask the benefit of said convention and final protocol, and especially of Article IV thereof, shall be required, simultaneously with the filing of his application, to file a duly au-

thenticated transcript of the application deposited by him in such foreign country, and of the date of the depositing thereof.

Such authentication may be made in the manner and form prescribed by the laws of such foreign country, or by the laws of the United States.

#### **QUESTIONS NOT SPECIFICALLY PROVIDED FOR.**

229. All cases connected with the intricate and multifarious proceedings arising from the working of the Patent Office which are not specially defined and provided for in these rules will be decided in accordance with the merits of each case under the authority of the Commissioner; and such decision will be communicated to the interested parties in writing.



## APPENDIX OF FORMS.

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### PETITIONS.

#### 1. BY A SOLE INVENTOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at S., in the county of M., and State of N. [or subject, etc.], prays that letters patent be granted to him for the improvement in sewing-machines set forth in the annexed specification.

A. B.

#### 2. BY JOINT INVENTORS.

*To the Commissioner of Patents :*

Your petitioners, A. B. and C. D., citizens of the United States, residing respectively at L., in the county of M., and State of N., and at G., in the county of H., and State of I. [or subjects, etc.], pray that letters patent may be granted to them, as joint inventors, for the improvement in washing-machines set forth in the annexed specification.

A. B.

C. D.

#### 3. BY AN INVENTOR FOR HIMSELF AND AN ASSIGNEE.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], prays that letters patent may be granted to himself and C. D., a citizen of the United States, residing at L., in the county of M., and State of N., as his assignee, for the improvement in printing-presses set forth in the annexed specification.

A. B.

#### 4. PETITION WITH POWER OF ATTORNEY.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], prays that letters patent may be granted to him for the improvement in lamps set forth in the annexed specification; and he hereby appoints C. D.,\* of the city

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\* If the power of attorney be to a firm, the name of each member of the firm must be given in full.

of R., State of S., his attorney, with full power of substitution and revocation, to prosecute this application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

A. B.

#### 5. BY AN ADMINISTRATOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], administrator of the estate of C. D., late a citizen of S., deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C. D. (improvement in fire-hose) set forth in the annexed specification.

A. B., *Administrator, etc.*

#### 6. BY AN EXECUTOR.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], executor of the last will and testament of C. D., late a citizen of S., deceased (as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C. D. (improvement in churns) set forth in the annexed specification.

A. B., *Executor, etc.*

#### 7. FOR A REISSUE (BY THE INVENTOR).

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], prays that he may be allowed to surrender the letters patent for an improvement in coal-scuttles, granted to him May 16, 18—, whereof he is now sole owner [or whereof C. D., on whose behalf and with whose assent this application is made, is now sole owner, by assignment], and that letters patent may be reissued to him [or the said C. D.] for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title, duly certified, as required in such cases.

A. B.

#### ASSENT OF ASSIGNEE TO REISSUE.

The undersigned, assignee of the entire [or of an undivided] interest in the above mentioned letters patent, hereby assents to the accompanying application.

C. D.

## 8. FOR A REISSUE (BY ASSIGNEE).

[To be used only when the inventor is dead.]

*To the Commissioner of Patents :*

Your petitioners, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], and C. D., a citizen of the United States, residing at H., in the county of L., and State of K. [or subject, etc.], pray that they may be allowed to surrender the letters patent for an improvement in coal-scuttles, granted May 16, 18—, to E. F., now deceased, whereof they are now owners, by assignment, of the entire interest, and that the letters patent may be reissued to them for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title [or an order for making and filing the same, etc.].

A. B.

## 9. FOR LETTERS PATENT FOR A DESIGN.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], prays that letters patent may be granted to him for the term of three and one-half years [or seven years, or fourteen years]\* for the new and original design for carpets set forth in the annexed specification.

A. B.

## 10. CAVEAT.

The petition of A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc., see Rule 198], represents:

That he has made certain improvements in cotton-gins, and that he is now engaged in making experiments for the purpose of perfecting the same, preparatory to applying for letters patent therefor. He therefore prays that the subjoined description of his invention may be filed as a caveat in the confidential archives of the Patent Office.

A. B.

## 11. FOR THE RENEWAL OF A FORFEITED APPLICATION.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States residing at L., in the county of M., and State of N. [or subject, etc.], represents that on May 8, 18—, he filed an application for letters patent for an improvement in fences, serial number —, which application was allowed July 7, 18—, but that he failed to make payment of the final fee within the time allowed by law. He now makes renewed application for letters patent for said invention, and prays that the original specification, oath, drawings, and model may be used as a part of this application.

A. B.

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\* Sec. 4931 R. S. requires the election to be made in the original application.

## SPECIFICATIONS.

## 12. FOR AN ART OR PROCESS.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], have invented certain new and useful improvements in purifying and increasing the illuminating power of gas without appreciable loss of bulk (for which I have received letters patent in England, No. —, dated July 6, 18—\*); and I do hereby declare that the following is a full, clear, and exact description of the invention, which will enable others skilled in the art to which it appertains to make and use the same.

Heretofore gas has been purified by passing it through animal charcoal; but when this is used alone, after a short time it loses its power of absorbing impurities, and must then be washed with steam or water, or have atmospheric air blown through it, or be revived by heat. Used alone, animal charcoal also reduces the candle-power of the gas passed through it and diminishes its bulk.

The object of my invention is thoroughly to purify illuminating-gas, to make the operation continuous, and to purify the gas without detracting from its illuminating power, and without causing any appreciable diminution in bulk; and to this end my invention consists in increasing the power of animal charcoal to eliminate from illuminating-gas those substances which are considered impurities, in charging the charcoal with a substance which will prevent it from depriving the gas of illuminants, and in passing the gas to be purified with atmospheric air through the animal charcoal.

To carry my invention into effect, I moisten the charcoal (which may be either new or spent) with coal-tar, or with coal-tar and water, or in some cases with water only, and then charge this mass into one or more vessels, which then constitute the purifiers. I may put the mass into the vessels while still wet, or, unless water alone is used, after it has dried. Through these vessels the gas is to pass; but before it is admitted I introduce into it at the retorts, or at the stand-pipe or mains beyond, in order to insure a thorough admixture, a small quantity of atmospheric air—say from eight-tenths to two and a half per cent. of the bulk of the gas to be purified. The quantity of air will depend directly upon the impurities of the gas. Any suitable mixing device for thoroughly mixing the admitted air with the gas may be located at any point in the mains between the retorts and the bone-black purifiers, or even at the point of admission to the purifier. For water-gas the charcoal wet with water alone will suffice, air being introduced into the gas.

The oxygen of the air partly unites with the sulphur to form soluble salts, and the rest combines totally with the hydrogen of the sulphureted

\* NOTE.—If no foreign patent has been obtained, the words in parenthesis should be omitted.

and other hydrogen sulphur compounds to form water, and part of the sulphur of the sulphureted hydrogen and other sulphur compounds is precipitated in a free state in the charcoal, while its nitrogen partly goes to form, with part of the remaining hydrogen, ammonia bases. No free oxygen passes off with the purified gas, while if any nitrogen goes over, the quantity is so small that it is not detrimental.

By the application of air in this manner the process is rendered continuous, as the charcoal is kept constantly active for a great length of time.

When the absorbing power of the charcoal finally becomes exhausted, it may either be sold for the valuable ammoniacal salts it contains, or it may be revived, or be washed and freed from sulphur by a suitable sulphur solvent for re-use.

By charging the bone-black with coal-tar, I prevent it from taking out of the gas any olefiant gas or other heavy hydrocarbons serving as illuminants.

I may treat the black, either before or after putting it into the vessels, as may be most convenient or suitable, with any substance correlative to the illuminants of the gas—that is, with any substance which will impregnate the black in such a manner that it will not take up such illuminants. I have particularly described coal-tar because that is most readily at hand; but its hydrocarbon distillates or the benzole series will answer.

In the case of coal-gas, not only is the sulphureted hydrogen with which it is contaminated taken up, as just described, but the illuminating power of the gas, which is somewhat reduced if passed through dry animal charcoal or bone-black, is not decreased when air is used and the animal charcoal or bone-black is wet with tar, but is actually improved, inasmuch as it gives a whiter flame, of the same candle-power as the gas not passed through animal charcoal or bone-black at all.

By the old method, when purification was effected by the use of lime, the sulphureted hydrogen and carbonic acid were absorbed by the lime, and the result was, of course, a loss of the original bulk of the gas. Now, by my process the sulphur and hydrogen are separated, the sulphur remaining in the charcoal and the hydrogen passing through with the gas, while the carbonic acid passes through entire; and although it passes through unchanged, it is sufficiently carbureted not to detract from the illuminating power of the gas. I thus have practically the same bulk of gas after purification as before this operation, and loss is prevented without detriment to the consumer.

A striking advantage of my process is, that it unites the scrubbing and purifying operations, for the gas may be passed directly from the condenser into my purifiers.

To eliminate sulphureted hydrogen, I may also mix with the charcoal a substance which will of itself decompose sulphureted hydrogen contained in gas—such as oxide of iron, tin, manganese ore, etc.



When the gas issues from my purifiers it is entirely free from ammoniacal and sulphur compounds, and is nearly inodorous.

When the charcoal is removed from the purifiers it is also inodorous, and is in no sense offensive and disgusting like gas-lime.

Having fully described my invention, what I claim, and desire to secure by letters patent, is—

1. In the purification of illuminating-gas by means of animal charcoal, the process of preventing absorption of illuminants of the gas by the charcoal, which consists in supplying the charcoal with a suitable correlative to such illuminants, as described.

2. The process of purifying illuminating-gas, which consists in mixing the same with air and then passing it through animal charcoal impregnated with coal-tar, all substantially as described.

A. B.

Witnesses:

P. G.

J. D.

### 13. FOR A MACHINE.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.] have invented a new and useful meat-chopping machine (for which I have obtained a patent in Great Britain, No. —, bearing date June 24, 18—), of which the following is a specification.

My invention relates to improvements in meat-chopping machines in which vertically-reciprocating knives operate in conjunction with a rotating chopping-block; and the objects of my improvement are, first, to provide a continuously-lubricated bearing for the block; second, to afford facilities for the proper adjustment of the knives independently of each other in respect to the face of the block; and, third, to reduce the friction of the reciprocating rod which carries the knives.

I attain these objects by the mechanism illustrated in the accompanying drawing, in which—

Figure 1 is a vertical section of the entire machine; Fig. 2, a top view of the machine as it appears after the removal of the chopping-block and knives; Fig. 3, a vertical section of a part of the machine on the line 1 2, Fig. 2; and Fig. 4, a detailed view in perspective of the reciprocating cross-head and its knives.

Similar letters refer to similar parts throughout the several views.

The table or plate A, its legs or standards B B, and the hanger *a*, secured to the under side of the table, constitute the frame-work of the machine. In the hanger *a* turns the shaft D, carrying a fly-wheel, E, a crank-pin on the hub of which is connected by a link, *b*, to a pin passing through a cross-head, G, and to the latter is secured a rod, H, having at its upper end a cross-head, I, carrying the adjustable chopping-knives *d d*, referred to hereinafter.



The cross-head G, reciprocated by the shaft D, is provided with anti-friction rollers *e e*, adapted to guides *f f*, secured to the under side of the table A, so that the reciprocation of this cross-head may be accompanied with as little friction as possible.

To the under side of a wooden chopping-block, J, is secured an annular rib, *h*, adapted to and bearing in an annular groove, *i*, in the table A. (See Fig. 2.) This annular groove or channel is not of the same depth throughout, but communicates at one or more points (two in the present instance) with pockets or receptacles *j j*, deeper than the groove and containing supplies of oil, in contact with which the rib *h* rotates, so that the continuous lubrication of the groove and rib is assured. The rod H passes through and is guided by a central stand, K, secured to the table A, and projecting through a central opening in the chopping-block without being in contact therewith, the upper portion of the said stand being contained within a cover, *k*, which is secured to the block, and which prevents particles of meat from escaping through the central opening of the same.

The cross-head I, previously referred to, and shown in perspective in Fig. 4, is vertically adjustable on the rod H, and can be retained after adjustment by a set-screw, *x*, the upper end of the rod being threaded for the reception of nuts, which resist the shocks imparted to the cross-head when the knives are brought into violent contact with the meat on the chopping-block.

The knives *d d* are adjustable independently of each other and of the said cross-head, so that the coincidence of the cutting-edge of each knife with the face of the chopping-block may always be assured.

I prefer to carry out this feature of my invention in the manner shown in Fig. 4, where it will be seen that two screw-rods, *m m*, rise vertically from the back of each knife and pass through lugs *n n* on the cross-head, each rod being furnished with two nuts, one above and the other below the lug through which it passes. The most accurate adjustment of the knives can be effected by the manipulation of these nuts.

A circular casing, *p*, is secured to the chopping-block, so as to form on the same a trough, P, for keeping the meat within proper bounds; and on the edge of the annular rib *h*, secured to the bottom of the block, are teeth for receiving those of a pinion, *q*, which may be driven by the shaft D through the medium of any suitable system of gearing, that shown in the drawing forming no part of my present invention.

This shaft D may be driven by a belt passing round the pulleys *s*, or it may be driven by hand from a shaft, W, furnished at one end with a handle, *t*, and at the other with a cog-wheel, R, gearing into a pinion on the said shaft D.

A platform, T, may be hinged, as at *w*, to one edge of the table A, to support a vessel in which the chopped meat can be deposited. The means by which it may be supported, and the most convenient method of disposing of it when not in use, are shown in Fig. 1.

I am aware that prior to my invention meat-chopping machines have been made with vertically-reciprocating knives operating in conjunction with rotating chopping-blocks. I therefore do not claim such a combination, broadly; but

What I do claim as my invention, and desire to secure by letters patent, is—

1. The combination, in a meat-chopping machine, of a rotary chopping-block having an annular rib, *h*, with a table having an annular recess, *i*, and a pocket, *j*, communicating with the said recess, all substantially as set forth.

2. In a meat-chopping machine, the combination of a rotary chopping-block with a reciprocating cross-head carrying knives *d d*, each of which is vertically adjustable on the said cross head independently of the other, substantially as described.

3. The knife *d*, having two screw-rods, *m m*, attached to its back, substantially as shown, for the purpose specified.

4. The combination, in a meat-chopping machine, of the reciprocating rod *H*, carrying the knives *d d*, the cross-head *C*, secured to the said rod, and having anti-friction rollers *e e*, with guides *f f*, adapted to the said rollers, all substantially as set forth.

A. B.

Witnesses:

C. D.

E. F.

#### 14. FOR A COMPOSITION OF MATTER.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], have invented a new and useful composition of matter to be used for the removal of hair and grease from hides preparatory to tanning (for which I have obtained a patent in Great Britain, No. —, dated February 25, 18—), of which the following is a specification.

My composition consists of the following ingredients, combined in the proportions stated, viz.

Pure water .....	500 gallons.
Unslaked lime .....	32 gallons.
Soda-ash .....	100 pounds.
Salt-peter .....	20 pounds.
Flowers of sulphur .....	10 pounds.

These ingredients are to be thoroughly mingled by agitation.

In using the above-named composition the hides should first be freed from all salt and impurities, by soaking green hides one day and dry hides eight days, and then placing the hides so cleaned in the said solution, and allowing them to remain in it forty-eight hours. The hides are then to be removed from the solution and unhaired in the usual way.

By the use of the above composition the hair is speedily and thoroughly loosened, and the hides, while retaining all of that portion of the substance which can be converted into leather, are at the same time entirely cleaned from grease and other substances which would prevent them from being tanned quickly.

I am aware that a composition consisting of soda-ash, water, lime, and sulphur has been used for the same purpose, and that a patent therefor was granted to C. D., July 10, 18—, No. —. I am also aware that saltpeter has been used in depilatory processes; but I am not aware that all of the ingredients of my composition, in the proportions stated, have been used together.

What I claim, and desire to secure by letters patent of the United States, is—

The herein-described composition of matter to be used for depilating hides and preparing them for being tanned, consisting of water, unslaked lime, soda-ash, saltpeter, and flowers of sulphur, in the proportions specified.

A. B.

Witnesses :

C. D.

E. F.

#### 15. FOR A DESIGN.

*To all whom it may concern :*

Be it known that I, A. B., a citizen of the United States, residing at L, in the county of M., and State of N. [or subject, etc.], have invented and produced a new and original design for watch-cases or lockets, of which the following is a specification, reference being had to the accompanying drawings, forming part thereof.

Figure 1 is a sectional view of a watch-case showing my design; Fig. 2, a side elevation of same, and Fig. 3 an edge view, these three views being deemed necessary to fully illustrate my design.

The leading feature of my design consists in a raised scalloped surface, the outlines of which, when viewed in elevation, as in Fig. 2, will fall entirely within the circular outline or circumference of the center.

A is the center of the case, which is circular in its general contour, and B B are the lids. These are also circular in their outer contour where they meet the center, but have scallops C C C on them, substantially as represented in the several figures. The irregular outline of the scalloped surface falls within the outer contour-line of the case, thus presenting to the eye the combined effect of a smooth circular outline and a scalloped outline within it.

Within the smooth open field of each of the lids, centrally set thereupon, is the shield-shaped figure D, having upon its outer periphery also a scalloped outline harmonizing with the scalloped outline outside thereof.

What I claim is—

1. The design for a watch-case herein shown and described, the same comprising the circular lid B, the shield-shaped figure D, bordered by the connected series of raised scallops C C C, the contour of the latter being within the contour of the lid, as set forth.

2. In the design for a watch-case herein shown and described, the centrally-set shield-shaped figure D, having upon its outer periphery a scalloped outline, as set forth.

A. B.

Witnesses:

C. D.

E. F.

#### 16. FOR A CAVEAT.

*To the Commissioner of Patents:*

Be it known that I, A. B., a citizen of the United States, residing, at L., in the county of M., and State of N. [or subject, etc., see Rule 202], having invented an improvement in velocipedes, and desiring further to mature the same, file this my caveat therefor, and pray protection of my right until I shall have matured my invention.

The following is a description of my newly-invented velocipede, which is as full, clear, and exact as I am able at this time to give, reference being had to the drawing hereto annexed.

This invention relates to that class of velocipedes in which there are two wheels connected by a beam forming a saddle for the rider, the feet being applied to cranks that revolve the front wheel.

The object of my invention is to render it unnecessary to turn the front wheel so much as heretofore, and at the same time to facilitate the turning of sharp curves. This I accomplish by fitting the front and the hind wheels on vertical pivots, and connecting them by means of a diagonal bar, as shown in the drawing, so that the turning of the front wheel also turns the back wheel with a position at an angle with the beams, thereby enabling it easily to turn a curve.

In the drawing, A is the front wheel, B the hind wheel, and C the standards extending from the axle of the front wheel to the vertical pivot E in the beam F, and D is the cross-bar upon the end of E, by which the steering is done. The hind wheel B is also fitted with jaws G and a vertical pivot, H.

A. B.

Witnesses:

C. D.

E. F.

## OATHS.

## 17. BY AN INVENTOR.

[To follow specification.]

State of ———, County of ———, ss :

———, the above-named petitioner, citizen of<sup>1</sup>———, and resident of ———, in the county of ——— and State of ———, being duly sworn (or affirmed), depose and say that<sup>2</sup>——— verily believe<sup>3</sup>——— to be the original, first, and<sup>4</sup>——— inventor of the improvement in<sup>5</sup>——— described and claimed in the foregoing specification; that the same has not been patented to<sup>6</sup>———, or to others with<sup>7</sup>——— knowledge or consent, except in the following countries: <sup>8</sup>———

———; that the same has not to<sup>9</sup>——— knowledge been in public use or on sale in the United States for more than two years prior to this application, and<sup>10</sup>——— do not know and do not believe that the same was ever known or used prior to<sup>11</sup>——— invention thereof.

(Inventor's full name): ——— ———.

Sworn to and subscribed before me this ——— day of ———, 18——.

[L. S.]

(Signature of justice or notary): ——— ———.

(Official character): ——— ———.

[For officers before whom the oath may be made see Rule 47. If the applicant be an alien, the oath will show of what foreign state or sovereign he is a citizen or subject.

If the applicants claim to be *joint inventors*, the oath will show "that they verily believe themselves to be the original, first, and joint inventors," etc.

If the inventor be dead, the oath will be made by the administrator or executor, who will declare his belief that the party named as inventor was the original and first inventor.]

<sup>1</sup> If the applicant be an alien, he will state of what foreign or sovereign state he is a citizen or subject.

<sup>2</sup> "He" or "they."

<sup>3</sup> "Himself" or "themselves."

<sup>4</sup> "Sole" or "joint."

<sup>5</sup> Insert title of invention.

<sup>6</sup> "Himself" or "themselves."

<sup>7</sup> "His" or "their."

<sup>8</sup> Here insert, if previously patented, the country or countries in which it has been so patented, giving the date and number of each patent. If not previously patented, erase the words "except in the following countries" and insert the words "in any country."

<sup>9</sup> "His" or "their."

<sup>10</sup> "He" or "they."

<sup>11</sup> "His" or "their."



## 19. BY AN APPLICANT FOR A REISSUE (INVENTOR).

[When the original patent is claimed to be inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," this form can be modified accordingly.]

*State of* ———, *County of* ———, *ss:*

————, the above-named petitioner, being duly sworn, deposes and says that he does verily believe himself to be the original and first inventor of the improvement set forth and claimed in the foregoing specification, and for which improvement he solicits a patent;<sup>1</sup> that deponent does not know and does not believe that said improvement was ever before known or used; <sup>1</sup> that deponent is a citizen of the United States of America, and resides at ———, in the county of ———, and State of ———; <sup>1</sup> that deponent verily believes that the letters patent referred to in the foregoing petition and specification, and herewith surrendered, are inoperative (or invalid) for the reason that the specification thereof is defective (or insufficient), and that such defect (or insufficiency) consists particularly in<sup>2</sup> —————; and deponent further says that the errors which render such patent so inoperative (or invalid) arose from inadvertence (or accident, or mistake), and without any fraudulent or deceptive intention on the part of deponent; <sup>3</sup> that the following is a true specification of the errors which it is claimed constitute such inadvertence (or accident, or mistake), relied upon: <sup>2</sup>—————; that such errors so particularly specified arose (or occurred) as follows:<sup>2</sup>—————.

(Inventor's full name): ———.

Subscribed and sworn to before me this ——— day of ———, 18—.

[L. S.]

(Signature of justice or notary): ———.

(Official character): ———.

## 20. BY AN APPLICANT FOR A REISSUE (ASSIGNEE).

[To be used only when the inventor is dead.]

*State of* I., *County of* K., *ss:*

A. B. and C. D., the above-named petitioners, being duly sworn [or affirmed], depose and say that they verily believe that the aforesaid letters patent granted to E. F. are [here follows Form 19, the necessary changes being made]; that the entire title to said letters patent is vested in them; and that they verily believe the said E. F. to be the first and original inventor of the invention set forth and claimed in the foregoing amended specification; and that the said E. F. is now deceased.

A. B.

C. D.

Sworn to and subscribed before me this 14th day of November, 18—.

A. B.,

[*Title of office.*]

<sup>1</sup> Rule 46.

<sup>2</sup> Rule 87.

<sup>3</sup> Rules 85 and 87.



## 21. SUPPLEMENTAL OATH TO ACCOMPANY A NEW OR AN ENLARGED CLAIM.

*State of I., County of K., ss :*

A. B., whose application for letters patent for an improvement in seed-drills (serial number —) was filed in the United States Patent Office on or about the 15th day of March, 18—, being duly sworn [or affirmed], deposes and says that he verily believes himself to be the original and first inventor of the improvement as described and claimed in the foregoing amendment, in addition to that which was embraced in the claims originally made, and that he does not know and does not believe that the same was ever before known or used, and that the matter sought to be inserted formed a part of his original invention at the date of filing said application, and was invented by him before he filed the same.

A. B.

Sworn to and subscribed before me this 11th day of July, 18—.

C. D.,

[*Official title.*]

## 22. OATH AS TO THE LOSS OF LETTERS PATENT.

*State of I., County of K., ss :*

A. B., of said county, being duly sworn [or affirmed], doth depose and say that the letters patent No. —, granted to him, and bearing date on the 9th day of January, A. D. 18—, have been either lost or destroyed; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find them.

A. B.

Subscribed and sworn to before me this 5th day of October, 18—.

C. D.,

[*Official title.*]

## 23. OATH OF ADMINISTRATOR AS TO THE LOSS OF LETTERS PATENT.

*State of I., County of K., ss :*

A. B., of said county, being duly sworn, doth depose and say that he is administrator of the estate of E. F., deceased, late of L., in said county; that the letters patent No. —, granted to said E. F., and bearing date of the 9th day of January, A. D. 18—, have been lost or destroyed, as he verily believes; that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and especially among the papers of the decedent, and that he has not been able to find said letters patent.

A. B.,

*Administrator, etc.*

Subscribed and sworn to before me this 5th day of October, 18—.

C. D.,

[*Official title.*]

## 24. POWER OF ATTORNEY AFTER APPLICATION FILED.

If the power of attorney be given at any time other than that of making application for letters patent, it will be in substantially the following form:

*To the Commissioner of Patents :*

The undersigned, having, on or about the 20th day of July, 18—, made application for letters patent for an improvement in horse-powers (serial number —), hereby appoints C. D.,\* of L., in the county of M., and State of N., his attorney, with full power of substitution and revocation, to prosecute said application, to make alterations and amendments therein, to receive the patent, and to transact all business in the Patent Office connected therewith.

Signed at L., in the county of M., State of N., this 6th day of June, 18—.

A. B.

## 25. REVOCATION OF POWER OF ATTORNEY.

*To the Commissioner of Patents :*

The undersigned, having, on or about the 26th day of December, 18—, appointed C. D., of L., in the county of M., and State of N., his attorney to prosecute an application for letters patent, which application was filed on or about the 1st day of June, 18—, for an improvement in the running-gear of wagons (serial number —), hereby revokes the power of attorney then given.

Signed at L., in the county of M., and State of N., this 21st day of July, 18—.

A. B.

## 26. AMENDMENT.†

*To the Commissioner of Patents :*

In the matter of my application for letters patent for an improvement in sewing-machines, filed May 1, 18— (serial number —), I hereby amend my specification as follows:

By striking out all between the 5th and 20th lines, inclusive, of page 3;

By inserting the words "connected with" after the word "and" in the 1st line of the 2d claim; and

By striking out the 3d claim and substituting therefor the following:

"3. The combination, with the driving-shaft, the needle-bar, and mechanism for reciprocating the same, of the shuttle carrier, the shuttle-lever, and a cam carried by the driving-shaft, whereby the proper re-

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\* See foot-note page 63.

† NOTE.—In the preparation of all amendments a separate paragraph should be devoted to each distinct erasure or insertion, in order to aid the office in making the entry of the amendment into the case to which it pertains.

ciprocating movement is imparted to the shuttle-carrier, and the needle-bar is caused to operate in unison therewith, substantially as described."

Signed at L., in the county of M., and State of N.

A. B.,  
By S. Z.,  
*His Attorney in Fact.*

### DISCLAIMERS.

#### 27. DISCLAIMER AFTER PATENT.

*To the Commissioner of Patents :*

Your petitioner, A. B., a citizen of the United States, residing at L., in the county of M., and State of N. [or subject, etc.], represents that in the matter of a certain improvement in printing-presses, for which letters patent of the United States No. — were granted to C. D. on the 12th day of June, 18—, he is [here state the exact interest of the disclaimant; if assignee, set out liber and page where assignment is recorded], and that he has reason to believe that through inadvertence [accident or mistake] the specification and claim of said letters patent are too broad, including that of which said patentee was not the first inventor. Your petitioner, therefore, hereby enters his disclaimer to that part of the claim in said specification which is in the following words, to wit:

"I also claim the sleeves A B, having each a friction-cam, C, and connected, respectively, by means of chains or cords K L and M N, with an oscillatory lever, to operate substantially as herein shown and described."

A. B.

Witness:

C. D.

#### 28. DISCLAIMER DURING INTERFERENCE.

*Interference.*

A. B. }  
vs. } Before the examiner of interferences.  
C. D. }

Subject-matter: Sewing-machines.

*To the Commissioner of Patents :*

SIR: In the matter of the interference above noted, under the provisions of and for the purpose set forth in Rule 107, I disclaim [set forth the matter as given in declaration of interference], as I am not the first inventor thereof, and I herewith transmit an amendment to my application (serial number —), for the purpose of having the above disclaimer embodied as part of my specification.

Signed at L., in the county of M., in the State of N., this 15th day of June, 18—.

A. B.

Witnesses:

E. F.

G. H.

## APPEALS.

## 29. FROM A PRINCIPAL EXAMINER TO THE EXAMINERS-IN-CHIEF.

*To the Commissioner of Patents :*

SIR: I hereby appeal to the examiners-in-chief from the decision of the principal examiner in the matter of my application for letters patent for an improvement in wagon-brakes, filed January 10, 18—, which on the 29th day of July, 18—, was rejected the second time. The following are the points of the decision on which the appeal is taken: [Here follows a statement of the points on which the appeal is taken, as provided in Rule 133.]

[Place and date of signing.]

A. B.

## 30. FROM A PRINCIPAL EXAMINER TO THE COMMISSIONER.

*To the Commissioner of Patents :*

SIR: I hereby petition to you in person from the decision of the principal examiner, made April 7, 18—, in the case of my application for letters patent for an improvement in harvesters, filed January 10, 18—, wherein he refused to consider the case upon its merits until certain alleged inaccuracies of expression in the specification should be corrected. The following are the points of the decision on which the petition is taken: [Here follow points on which petition is taken.]

[Place and date of signing.]

A. B.

## 31. FROM THE EXAMINERS-IN-CHIEF TO THE COMMISSIONER.

*To the Commissioner of Patents :*

SIR: I hereby appeal to you in person from the decision of the examiners-in-chief, made April 7, 18—, in the interference between my application for letters patent for improvement in sewing-machines and the letters patent of A. B., in which priority of invention was awarded to said A. B. The following are assigned for reasons of appeal: [Here should follow an explicit statement of the alleged errors in the decision of the examiners-in-chief.]

C. D.

## 32. FROM THE EXAMINER IN CHARGE OF INTERFERENCES TO THE EXAMINERS-IN-CHIEF.

*To the Commissioner of Patents :*

SIR: I hereby appeal to the examiners-in-chief from the decision of the examiner of interferences in the matter of the interference between my application for letters patent for improvement in sewing-machines and the letters patent of A. B., in which priority of invention was awarded to said A. B. The following are assigned for reasons of appeal: [Here should follow an explicit statement of alleged errors in the decision of the examiner of interferences.]

C. D.

## 33. FROM THE EXAMINERS-IN-CHIEF TO THE COMMISSIONER.

*To the Commissioner of Patents :*

SIR: We hereby appeal to the Commissioner in person from the decision of the examiners-in-chief in the matter of our application for the reissue of letters patent for an improvement in cotton-presses, granted to A. B., May 18, 18—. The following are assigned for reasons of appeal: [Here follow the reasons as in Form 31.]

C. D.

E. F.

## 34. FROM THE COMMISSIONER TO THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

WASHINGTON, D. C., July 20, 18—.

*To the Supreme Court of the District of Columbia, in banc :*

The petition of A. B., of L., in the county of M., and State of N., respectfully sheweth: That he has heretofore invented a new and useful improvement in velocipedes; that on or about the 1st day of May, 18—, he applied to the Patent Office of the United States for a patent for the same [or for the reissue of a patent granted therefor under date of June 10, 18—], and complied with the requirements of the several acts of Congress, and with the rules of the Patent Office prescribed in such cases; that his said application was rejected by the Commissioner of Patents, on appeal to him, on or about June 20, 18—; that he has filed in said office due notice to the Commissioner of Patents of this his appeal, accompanied with the reasons of appeal; and that the Commissioner has furnished him with complete copies of all the original papers and evidence in the case, all of which, together with a copy of the reasons of appeal, accompany this petition, and are to be taken as a part hereof.

And the said A. B. prays that his said appeal may be heard and determined by your honorable court at such early time as may be appointed for that purpose; and that the Commissioner of Patents may be duly notified of the same, and directed in what manner to give notice thereof to the parties interested.

A. B.

*To the Commissioner of Patents :*

A. B., of L., in the county of M., and State of N., hereby gives notice that he has appealed from your decision, rendered on or about the 20th day of June, 18—, rejecting his application for a patent [or for a reissue of a patent granted to him June 10, 18—], for an improvement in velocipedes; and of this you are respectfully requested to take notice.

And the said A. B. assigns the following reason for appealing from the said decision of the Commissioner of Patents, viz:

[Here follow reasons, which should be full and explicit, and constitute a brief of the appellant's argument.]

A. B.



## 35a. PRELIMINARY STATEMENT FOR DOMESTIC INVENTOR.

A. B. } Interference in the United States Patent Office.  
 vs. } Preliminary statement of A. B.  
 C. D. }

A. B., of L., in the county of M., and State of N., being duly sworn, doth depose and say that he is a party to the interference declared by the Commissioner of Patents, June 3, 18—, between A. B.'s application for letters patent, filed May 6, 18—, serial number —, and the patent to C. D., granted April 20, 18—, for a twine-machine; that he conceived the invention set forth in the declaration of interference\* on or about the — day of —, 18—; that on or about the — day of —, 18—, he made drawings of the invention [if he has not made a drawing, then he should say that no drawing of the invention in issue has been made]; that on or about the — day of —, 18—, he first explained the invention to others, and that he made a model showing such invention on or about the — day of —, 18— [if he has not made a model, then he should allege that no model of the invention in issue has been made]; that he embodied his invention in a full-sized machine, which was completed about the — day of —, 18—, and that on the — day of —, 18—, the said machine was successfully operated at his shop in the town of L., county of M., State of N., and that he has since continued to use the same, and that he has manufactured others for use and sale. [If he has not embodied the invention in a full-sized machine, he should so state, and if he has embodied it, but has not used it, he should so state.]

A. B.

Subscribed and sworn to before me this — day of —, 18—.

E. F.,  
[Official title.]

## 35b. PRELIMINARY STATEMENT OF FOREIGN INVENTOR.

A. B. } Interference in United States Patent Office.  
 vs. } Preliminary statement of A. B.  
 C. D. }

A. B., of London, in the county of Middlesex, England, being duly sworn, doth depose and say that he is a party to the interference declared by the Commissioner of Patents, January 2, 18—, between his application for patent, filed December 15, 18—, serial number —, and the patent of C. D., granted October 12, 18—, No. —, for an improvement in saws; that he made the invention set forth in the declara-

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\* If the party has doubts as to whether the matter of his application is properly involved in the issue as declared, then in lieu of the terms "the invention set forth in the declaration of interference" he may say "the invention contained in the claims of my application [or patent] declared to be involved in this interference," and should specify such claims by number.



tion of interference,\* being at that time in England; that patents for such invention were applied for and obtained as follows:

Application filed in Great Britain ———, 18—, patent dated ———, 18—, No. ———; application filed in France ———, 18—, patent dated ———, 18—, No. ———. [If a patent has not been obtained in any country it should be so stated.]

That such invention was fully described in a magazine published at Edinburgh, ———, 18—, by Messrs. G. & H., entitled "The Magazine of Science" (see page ——— of such magazine), and in the following newspapers: The London Journal, of ———, 18—; Le Courier, published at Paris, date of ———, 18—. [If the invention was never described in a printed publication it should be so stated.]

That knowledge of such invention was introduced into the United States under the following circumstances: On May 1, 18—, the said A. B. wrote a letter to E. F., residing at New York, State of New York, describing such invention and soliciting his services in procuring a patent therefor in the United States. This letter, he is informed and believes, was received by the said E. F. on May 15, 18—. Also on June 2, 18—, he wrote a letter to the firm of ———, of ———, State of ———, describing such invention and requesting their assistance in manufacturing and putting it on the market, which letter, he is informed and believes, was received by them on June 20, 18—. Such invention was manufactured by such firm and described in their trade circulars, as he is informed and verily believes, on or about the 15th day of August, 18—. [If the invention has not been introduced into the United States otherwise than by the application papers it should be so stated, and the date at which such papers were received in the United States alleged.]

A. B.

Subscribed and sworn to before me this ——— day of ———, 18—.

E. F.,

[*Official title.*]

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\* If the party has doubts as to whether the matter of his application is properly involved in the issue as declared, then in lieu of the terms "the invention set forth in the declaration of interference," he may say "the invention contained in the claims of my application [or patent] declared to be involved in this interference," and should specify such claims by number.

36. RULES OF THE SUPREME COURT IN APPEALS FROM THE COMMISSIONER OF PATENTS, ADOPTED NOVEMBER 30, 1870.

1. The appellant's petition shall be addressed to the court, and shall be substantially as follows:

*"To the Supreme Court of the District of Columbia, in banc, ———, 18—.*

*"The petition of ——— ———, a citizen of ———, in the [State, Territory, district] of ——— ———, respectfully shows as follows:*

*"(1) About the ——— day of ———, 18—, I invented [describe the subject of the desired patent in the identical words of the application to the Patent Office.]*

*"(2) On the ——— day of ———, 18—, in the manner prescribed by law, I presented my application to the Patent Office, praying that a patent be issued to me for said invention.*

*"(3) Such proceedings were had in said office, upon said application, that on the ——— day of ———, 18—, it was rejected by the Commissioner of Patents.*

*"(4) I thereupon appealed to this court, and gave notice thereof to the Commissioner, and filed in his office the following reasons for said appeal:*

*"(5) The Commissioner of Patents has furnished me a complete copy of all the proceedings in his office upon my said application, which copy has been filed herewith, and is to be taken as part hereof.*

*"(6) And thereupon I pray that the court do revise and reverse said decision, to the end that justice may be done in the premises.*

*"——— ———."*

2. This petition shall be filed in the clerk's office of this court; and as soon as the petitioner has made the deposit required by law at the commencement of suits in this court, or said deposit has been dispensed with, the clerk shall enter the case in a docket to be provided by him for the purpose, and in which a brief of said filing and of all subsequent proceedings in the case shall be entered as and when they successively occur, down to and including the final decision.

3. The clerk shall provide a minute-book of his office, in which he shall record every order, rule, judgment, or decree of the court in each case, in the order of time in which said proceedings occur; and of this book there shall be two alphabetical indexes, one showing the name of the party applying for the patent, and the other designating the invention by its subject-matter or name.

4. The cases in the docket of causes shall be successively numbered from No. 1 onward, and each case shall also be designated by the number assigned to it on the records of the Patent Office.

5. This docket shall be called for the trial of the cases thereon on the first day of each session of this court in general term, provided the petition has been filed ten days before the commencement of the term.

6. The opinions of the court, when written, shall be kept by the clerk, in the order of their delivery and in a temporary book-file, indexed; and when so many have been delivered as will make a volume of convenient size, he shall cause them to be bound.

7. The clerk shall furnish to any applicant a copy of any paper in any of said appeals on payment of the lawful fees.

8. Hearings of said appeals shall be subject to the rules of the court provided for other causes therein.

9. When the testimony of the Commissioner, or of any examiner, touching the principles of invention in question, shall be deemed necessary, it shall be taken orally in open court, unless otherwise ordered by the court. And in such case the court may order it to be reduced to writing, and filed or entered on its minutes, if it think proper.

10. The final judgment or order of the court shall not recite any of the facts made to appear in the case, but shall be to the following effect:

"This appeal having been heard upon the record from the Patent Office [and upon the testimony of the Commissioner of Patents] [of one of the examiners] [touching the principles of the invention], and having been argued by [counsel for] the petitioner and [for] the Commissioner:

"It is thereupon ordered and adjudged that the [petition be dismissed] [Commissioner do issue to the petitioner a patent] [as prayed], [granting the petitioner (*so and so*)].

"And that the clerk of this court transmit to the Commissioner of Patents a copy of this decree duly authenticated."

### ASSIGNMENTS.

#### 37. OF AN ENTIRE INTEREST IN AN INVENTION BEFORE THE ISSUE OF LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., have invented a certain new and useful improvement in harvesters [giving title of the same], for which I am about to make application for letters patent of the United States; and whereas G. D., of R., county of S., State of N., is desirous of acquiring an interest in said invention, and in the letters patent to be obtained therefor:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of ——— dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said G. D., the full and exclusive right to the said invention, as fully set forth and described in the specification prepared and executed by me on the ——— day of ———, 18 —, preparatory to obtaining letters patent of the United States therefor; and I do hereby

authorize and request the Commissioner of Patents to issue the said letters patent to the said G. D., as the assignee of my entire right, title, and interest in and to the same, for the sole use and behoof of the said G. D. and his legal representatives.

In testimony whereof I have hereunto set my hand and affixed my seal this 4th day of May, A. D. 18—.

A. B. [SEAL.]

In presence of—

O. P.

S. T.

### 38. OF THE ENTIRE INTEREST IN LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for an improvement in car-wheels, which letters patent are numbered ———, and bear date the 5th day of June, in the year 18—, and whereas I am now the sole owner of said patent and of all rights under the same; and whereas E. F., of R., county of S., State of N., is desirous of acquiring the entire interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of ——— dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said C. D., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said E. F., the whole right, title, and interest in and to the said improvement in car-wheels, and in and to the letters patent therefor aforesaid; the same to be held and enjoyed by the said E. F., for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 25th day of July, A. D. 18—.

A. B. [SEAL.]

In présence of—

N. P.

O. T.

### 39. OF AN UNDIVIDED INTEREST IN LETTERS PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for an improvement in hay-rakes, which letters patent are numbered ———, and bear date the 3d day of August, in the year 18—; and whereas C. D., of R., county of S., State of N., is desirous of acquiring an interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of ——— dollars to me in hand paid, the

receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said D. E., the undivided one-half part of the whole right, title, and interest in and to the said invention, and in and to the letters patent therefor aforesaid; the said undivided one-half part to be held and enjoyed by the said C. D., for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 7th day of June, A. D. 18—.

A. B. [SEAL.]

In presence of—

N. P.

O. T.

#### 40. TERRITORIAL INTEREST AFTER GRANT OF PATENT.

Whereas I, A. B., of L., county of M., State of N., did obtain letters patent of the United States for improvement in grain-binders, which letters patent are numbered — and bear date the 8th day of June, in the year 18—; and whereas I am now the sole owner of the said patent and of all rights under the same in the below-recited territory; and whereas C. D., of R., county of S., State of N., is desirous of acquiring an interest in the same:

Now, therefore, to all whom it may concern, be it known that, for and in consideration of the sum of ——— dollars to me in hand paid, the receipt of which is hereby acknowledged, I, the said A. B., have sold, assigned, and transferred, and by these presents do sell, assign, and transfer unto the said C. D., all the right, title, and interest in and to the said invention, as secured to me by said letters patent, for, to, and in the State of N., and for, to, or in no other place or places; the same to be held and enjoyed by the said C. D. within and throughout the above-specified territory, but not elsewhere, for his own use and behoof, and for the use and behoof of his legal representatives, to the full end of the term for which said letters patent are or may be granted [thus including extension], as fully and entirely as the same would have been held and enjoyed by me had this assignment and sale not been made.

In testimony whereof I have hereunto set my hand and affixed my seal at L., in the county of M., and State of N., this 3d day of May, A. D. 18—.

A. B. [SEAL.]

In presence of—

S. T.

R. D.



## 41. LICENSE—SHOP-RIGHT.

In consideration of the sum of — dollars, to be paid by the firm of S. J. & Co., of L., in the county of M., State of N., I do hereby license and empower the said S. J. & Co. to manufacture in said L. [or other place agreed upon] the improvement in cotton-seed planters, for which letters patent of the United States No. — were granted to me, November 13, 18—, and to sell the machines so manufactured throughout the United States, to the full end of the term for which said letters patent are granted.

Signed at L., in the county of M., and State of N., this 22d day of April, 18—.

A. B.

## 42. LICENSE—NOT EXCLUSIVE—WITH ROYALTY.

This agreement, made this 12th day of September, 18—, between A. B., of L., in the county of M., and State of N., party of the first part, and C. D. & Co., of O., in the county of R., and State of S., party of the second part, witnesseth, that whereas letters patent of the United States No. —, for an improvement in horse-rakes were granted to the party of the first part, dated October 4, 18—; and whereas the party of the second part is desirous of manufacturing horse-rakes containing said patented improvement: Now, therefore, the parties have agreed as follows:

I. The party of the first part hereby licenses and empowers the party of the second part to manufacture, subject to the conditions hereinafter named, at their factory in O, and in no other place or places, to the end of the term for which said letters patent were granted, horse-rakes containing the patented improvements, and to sell the same within the United States.

II. The party of the second part agrees to make full and true returns to the party of the first part, under oath, upon the first days of January and July in each year, of all horse-rakes containing the patented improvements manufactured by them.

III. The party of the second part agrees to pay to the party of the first part five dollars as a license-fee upon every horse-rake manufactured by said party of the second part containing the patented improvements: provided, that if the said fee be paid upon the days provided herein for semi-annual returns, or within ten days thereafter, a discount of fifty per cent. shall be made from said fee for prompt payment.

IV. Upon a failure of the party of the second part to make returns or to make payment of license fees, as herein provided, for thirty days after the days herein named, the party of the first part may terminate this license by serving a written notice upon the party of the second part; but the party of the second part shall not thereby be discharged from any liability to the party of the first part for any license-fees due at the time of the service of said notice.



In witness whereof the parties above named have hereunto set their hands the day and year first above written at L., in the county of M., and State of N.

A. B.

C. D. & Co.

### EXTENSIONS.

#### 43. APPLICATION FOR AN EXTENSION (BY A PATENTEE).

*To the Commissioner of Patents :*

Your petitioner, A. B., now residing at L., in the county of M., and State of N., prays that letters patent No. ———, for an improvement in steam-engines, granted to him August 17, 18—, may be extended, in pursuance of an act of Congress approved January 25, 18—, a certified copy of which is hereto annexed.

Signed at L., in the county of M., and State of N.

A. B.

[Append copy.]

#### 44. APPLICATION FOR AN EXTENSION (BY AN ADMINISTRATOR)

*To the Commissioner of Patents :*

Your petitioner, A. B., of L., in the county of M., and State of N., administrator of the estate of C. D., late of R., in the county of S., and State of N., deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent No. ———, for an improvement in stoves, granted to said C. D., August 24, 18—, may be extended in pursuance of an act of Congress approved June 1, 18—, a certified copy of which is hereto annexed.

Signed at L., in the county of M., and State of N.

A. B., *Administrator.*

[Append copy.]

#### 45. STATEMENT AND ACCOUNT.

In the matter of the application of A. B., of L., county of M., and State of N., executrix of the last will and testament of C. D., late of R., in the county of S., and State of N., deceased, for extension of letters patent No. ———, granted to him January 9, 18—, for improvements in mowing-machines.

*To the Commissioner of Patents :*

The applicant respectfully represents that, prior to obtaining the letters patent now sought to be extended, the said C. D. was a farmer; that his attention was called to the subject of mowing-machines by the difficulty experienced in cutting grass by the machines then in use; that, after numerous patient and costly experiments, he succeeded in perfecting his invention and in obtaining his patent. He immediately

made arrangements to manufacture the improvement, and for this purpose sold three-fourths of his farm. He then, with others, built a factory and commenced operations; but two years afterward the establishment was destroyed by fire, without insurance. In the exposure at the fire C. D. contracted a disease which confined him to the house for three years, when he died, leaving applicant, his executrix and widow, with a large family and small means. Nevertheless, applicant made every effort to induce manufacturers to use the improvement, and at last succeeded in inducing the firm of E. T. & Co., of R., in the county of S., and State of N., to recommence the manufacture of the machines. But after four years the firm failed, being largely in debt to applicant for royalties. After this it became impossible for applicant to do anything with the invention. She wrote to several manufacturers and made personal application to others, but found them unwilling to make arrangements to pay royalties, or to use the invention in any way, unless she would sell the patent, including the extension, for a nominal sum. She states, however, that she has at length succeeded in perfecting an agreement with G. H. & Co., of T., in the county of W., and State of N., conditioned upon the extension, whereby the said firm agreed to manufacture the patented machines and to pay her a royalty of three dollars upon each one made. Aside from the interest so vested in G. H. & Co., the entire interest in the extension remains vested in her, and she has made no assignment, contract, or agreement of any kind for the sale or assignment of the extended term to any person whatsoever.

The following is believed to be a correct statement of receipts and expenditures, and is as full as it is possible to make it:

*Receipts.*

From profits from business (for particulars of which see Schedule A).....	\$1, 236. 00
From royalties from E. T. & Co. (for details of which see Schedule B) .....	2, 341. 50
From sale of shop-right to L. M .....	250. 00
Total receipts.....	3, 827. 50

*Expenditures.*

Expense of procuring patent.....	250. 00
Net receipts .....	3, 577. 50

The invention is exceedingly useful, as will be abundantly proved. The testimony will show that it has been introduced upon twenty thousand mowing-machines, and has increased the value of said machines not less than \$3 each. It is evident, therefore, that the public have

been greatly benefited by the use of this invention ; while the fact that C. D. invested his entire time and means and finally lost his life in the prosecution of his invention is respectfully submitted as proof that he has not been adequately remunerated for his time, ingenuity, and expense bestowed upon this invention and the introduction thereof into use.

A. B., *Executrix*.

#### 46. OATH BY AN APPLICANT FOR EXTENSION (PATENTEE).

*State of M., County of N., ss :*

A. B., the above-named applicant, being duly sworn (or affirmed), deposes and says that the foregoing statement and account by him signed are correct and true to the best of his knowledge and belief.

A. B.

Sworn to and subscribed before me at L., in said county, this 1st day of November, A. D. 18—.

C. D.,  
[*Official title.*]

#### 47. OATH BY AN APPLICANT FOR AN EXTENSION (EXECUTOR).

*State of M., County of N., ss :*

A. B., executor of the last will and testament of C. D., deceased, being duly sworn (or affirmed), deposes and says that the foregoing statement and account by him subscribed are correct and true, to the best of his information, knowledge, and belief.

A. B., *Executor, etc.*

Sworn to and subscribed before me at L., in said county, this 20th day of May, 18—.

C. D.,  
[*Official title.*]

#### 48. REASONS OF OPPOSITION TO AN EXTENSION (BY INDIVIDUALS).

In the matter of the application of A. B. for an extension of letters patent for improvements in sewing-machines, No. —, dated May 15, 18—.

*To the Commissioner of Patents :*

We wish to oppose the application above referred to, for the following reasons, viz :

1. Applicant was not the original and first inventor of the improvement claimed by him in said letters patent, the same having been fully described in the English patent No. — of the year —.

2. If said alleged invention was ever made by applicant, which we deny, it is not useful.

3. Said invention is not valuable nor important to the public.

4. Applicant has been adequately remunerated for his time, ingenuity, and expense in originating and perfecting his alleged invention.

5. Applicant has not used due diligence in introducing his alleged invention into general use.

6. Applicant has assigned to other parties all interest in the extension; and the extension, if granted, would not be for his benefit.

(See assignment to C. D., dated April 1, 18—; recorded June 2, 18—, in liber J<sup>o</sup>, page 217.)

7. The statement and account filed by applicant do not present a true statement of his receipts and expenditures.

E. F.

G. H.

I. K.

### DEPOSITIONS.

#### 49. NOTICE OF TAKING TESTIMONY.

BOSTON, MASS., *March 29, 18—.*

In the matter of the interference between the application of A. B. for a paper-collar machine and the patent No. ———, granted December 15, 18—, to C. D., now pending before the Commissioner of Patents.

SIR: You are hereby notified that on Wednesday, March 31, 18—, at the office of E. F., esq., No. 30 Court street, Boston, Mass., at nine o'clock in the forenoon, I shall proceed to take the testimony of G. H., J. K., and L. M., all of B., as witnesses in my behalf.

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

A. B.,

By R. S., *his Attorney.*

[Place and date of signing.]

#### *Proof of service.*

*State of M., County of N., ss:*

Personally appeared before me, a justice of the peace [or other officer], the above-named A. B., who, being duly sworn, deposes and says that he served the above notice upon O. P., the attorney of the said C. D., at 1 o'clock p. m. of the 30th day of March, 18—, by leaving a copy at his office in R., in the county of S., and State of N., in charge of his partner, R. S.

A. B.

Sworn to and subscribed before me at L., in the county of M. and State of N., this 31st day of March, 18—.

E. F.,

[*Official title.*]

[Service may be acknowledged by the party upon whom it is made as follows:

Service of the above notice acknowledged this 30th of March, 18—.

C. D.,

By E. F., *his Attorney.*]

## 50. FORM OF DEPOSITION.

Before the Commissioner of Patents, in the matter of the interference between the application of A. B. for a paper-collar machine and letters patent No. ———, granted December 15, 18—, to C. D.

Depositions of witnesses examined on behalf of A. B., pursuant to the annexed notice, at the office of E. F., No. 30 Court street, Boston, Mass., on Wednesday, March 31, 18—. Present, S. T., esq., on behalf of A. B., and V. W., esq., on behalf of C. D.

G. H., being duly sworn [or affirmed], doth depose and say, in answer to interrogatories proposed to him by S. T., esq., counsel for A. B., as follows, to wit:

Question 1. What is your name, age, residence, and occupation?

Answer 1. My name is G. H.; I am forty-three years of age; I am a manufacturer of paper collars, and reside at C., in the State of M.

Question 2, etc. \* \* \* \* \*

And in answer to cross-interrogatories proposed to him by V. W., esq., counsel for C. D., he saith:

Cross-question 1. How long have you known A. B.?

Answer 1. \* \* \* \* \*

G. H.

## 51. CERTIFICATE OF OFFICER.

[To follow deposition.]

*State of M., County of N., ss:*

I, A. B., a notary public within and for the county of M., and State of N. [or other officer, as the case may be], do hereby certify that the foregoing deposition of C. D. was [or depositions of C. D., E. F., etc., were] taken on behalf of G. H., in pursuance of the notice hereto annexed, before me at —, in the [city or town, etc.] of K., in said county, on the — day [or days] of August, 18—; that said witness [or each of said witnesses] was by me duly sworn before the commencement of his testimony; that the testimony of said witness [or each of said witnesses] was written out by myself [or by O. P. in my presence]; that the opposing party, X. Y., was present [or absent] during the taking of said testimony; that said testimony was taken at —, and was commenced at 9 o'clock a. m. on the 21st of August, 18—, was continued pursuant to adjournment on the 22d, 23d [etc.], and was concluded on the 28th of said month; that I am not connected by blood or marriage with either of said parties, nor interested directly or indirectly in the matter in controversy.

In testimony whereof I have hereunto set my hand and affixed my seal of office, at —, in said county, this 1st day of September, 18—.

S. T.,

[Official title.]



The magistrate will then append to the deposition the notice under which it was taken, and will seal up the testimony and direct it to the Commissioner of Patents, placing upon the envelope a certificate, in substance as follows:

I hereby certify that the within deposition of G. H. [if the package contains more than one deposition give all the names], relating to the matter of interference between A. B. and C. D., was taken, sealed up, and addressed to the Commissioner of Patents by me this 26th day of April, A. D. 18—.

E. F.,  
[Official title.]

## 52. PETITIONS FOR COPIES OF REJECTED AND ABANDONED APPLICATIONS.

*To the Commissioner of Patents:*

The petition of ———, a resident of ———, in the county of ———, and State of ———, respectfully shows:

First. That on the — day of —, A. D. —, patent No. —, issued to one —.

Second. That your petitioner is informed and believes that on the — day of —, A. D. —, said patentee filed in the United States Patent Office an application for patent for improvement in —.

Third. That your petitioner verily believes that said application has not been prosecuted during the past two years and upward; and he also verily believes that the last action had therein was on or about the — day of —, A. D. —.

Fourth. That said application has therefore become and now stands abandoned.

Fifth. That on the — day of —, A. D. —, said patentee began suit, in the circuit court of the United States for the — district of —, against your petitioner, which suit is based upon said patent; and the same is now pending and undetermined.

Sixth. Your petitioner is informed and believes that to enable him to prepare and conduct his defense in such suit it is material and necessary that he be allowed access to and copies of the files of such abandoned case.

Seventh. Your petitioner therefore requests that he or ———, in his behalf and as his attorney, be permitted to inspect and be furnished copies of all or any portion of such files.

—————,  
Petitioner.  
By ———,  
His Attorney.

*State of ———, County of ———, ss:*

On this — day of —, A. D. —, before me, a notary public in and for said county and State, personally appeared ———, the above-named attorney, who, being by me duly sworn, deposes and says that he has read the foregoing petition and knows its contents, and that



the same is true, except as to the matters therein stated on information or belief, and as to those matters he believes it to be true.

\_\_\_\_\_,  
Notary Public.

### 53. PETITION UNDER RULE 145.

Application of \_\_\_\_\_.

Serial number \_\_\_\_\_.

Subject of invention \_\_\_\_\_.

*To the Commissioner of Patents:*

Your petitioner avers—

*First.* That he is the applicant above named.

*Second.* That said application was filed on the \_\_\_\_\_ day of \_\_\_\_\_, last.

*Third.* That when so filed said application contained three claims.

*Fourth.* That your petitioner was informed by office letter of the \_\_\_\_\_, A. D. 18—, (1) that his *first* claim was rendered vague and indefinite by the employment of the words “\_\_\_\_\_,” which words should be erased; (2) that his *second* claim was met by certain references which were given; and (3) that the *third* claim was mere surplusage and should be eliminated.

*Fifth.* That on the \_\_\_\_\_ day of \_\_\_\_\_ your petitioner filed an amendment so eliminating his *third* claim, and accompanied such amendment with a communication in which he declined to amend such *first* claim, and asked for another action thereon.

*Sixth.* That your petitioner was then informed by office letter of the \_\_\_\_\_ day of \_\_\_\_\_ that the former requirement relating to claim *one* would be adhered to, and that no action would be had on the merits of either claim until said amendment so required had been made.

Wherefore your petitioner requests that the examiner in charge of such application be advised that such amendment so required by him to said *first* claim be not insisted upon, and directed to proceed to examine both said remaining claims upon their merits.

A hearing of this petition is desired on the \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_,  
Applicant.

\_\_\_\_\_,  
Attorney for Applicant.

*State of \_\_\_\_\_, County of \_\_\_\_\_, ss:*

On this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18—, personally appeared before me, a notary public in and for said county, \_\_\_\_\_, the above named petitioner, who, being by me duly sworn, says that he has heard said petition read and knows its contents, and that the same is true, except as to the matters therein alleged on information or belief, and as to those matters he believes it to be true.

\_\_\_\_\_,  
Notary Public.



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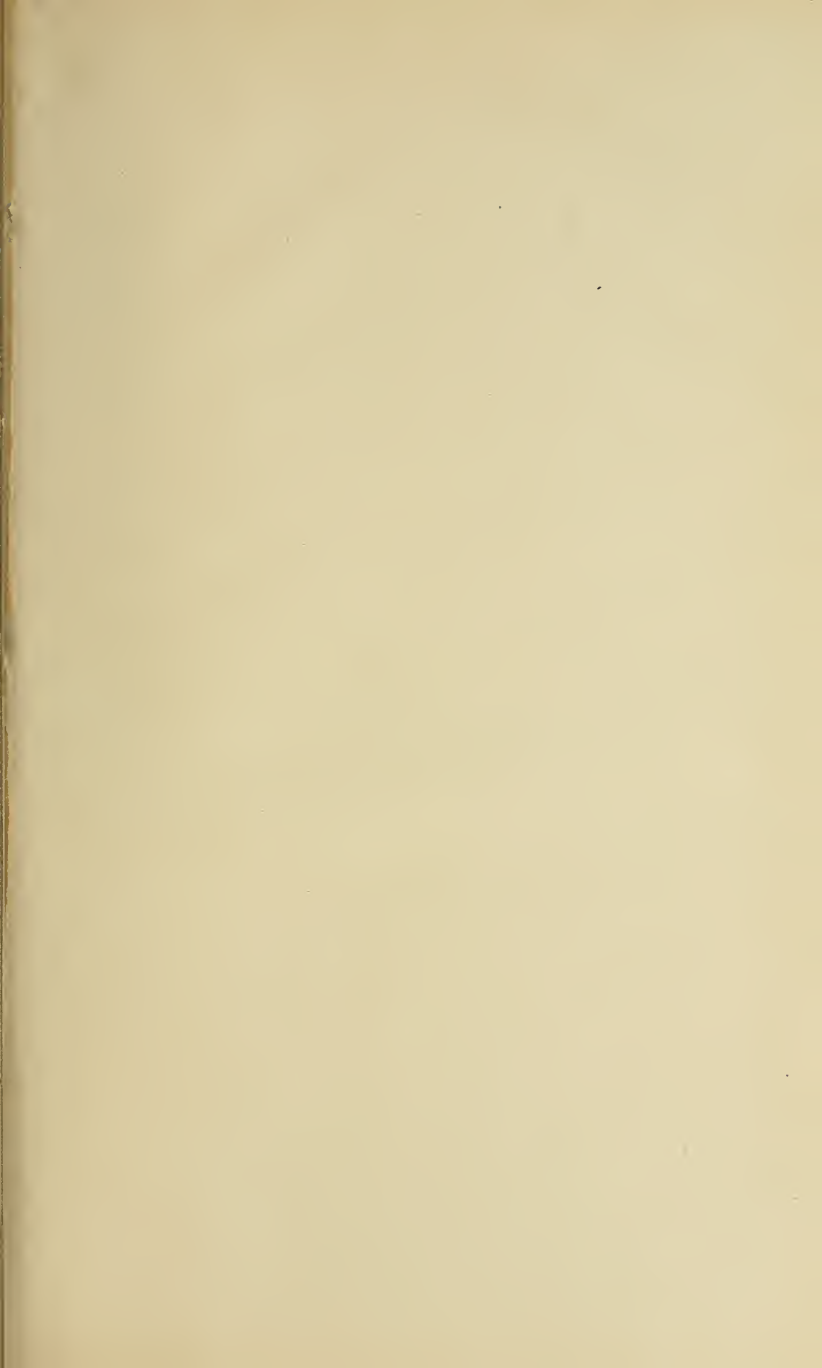
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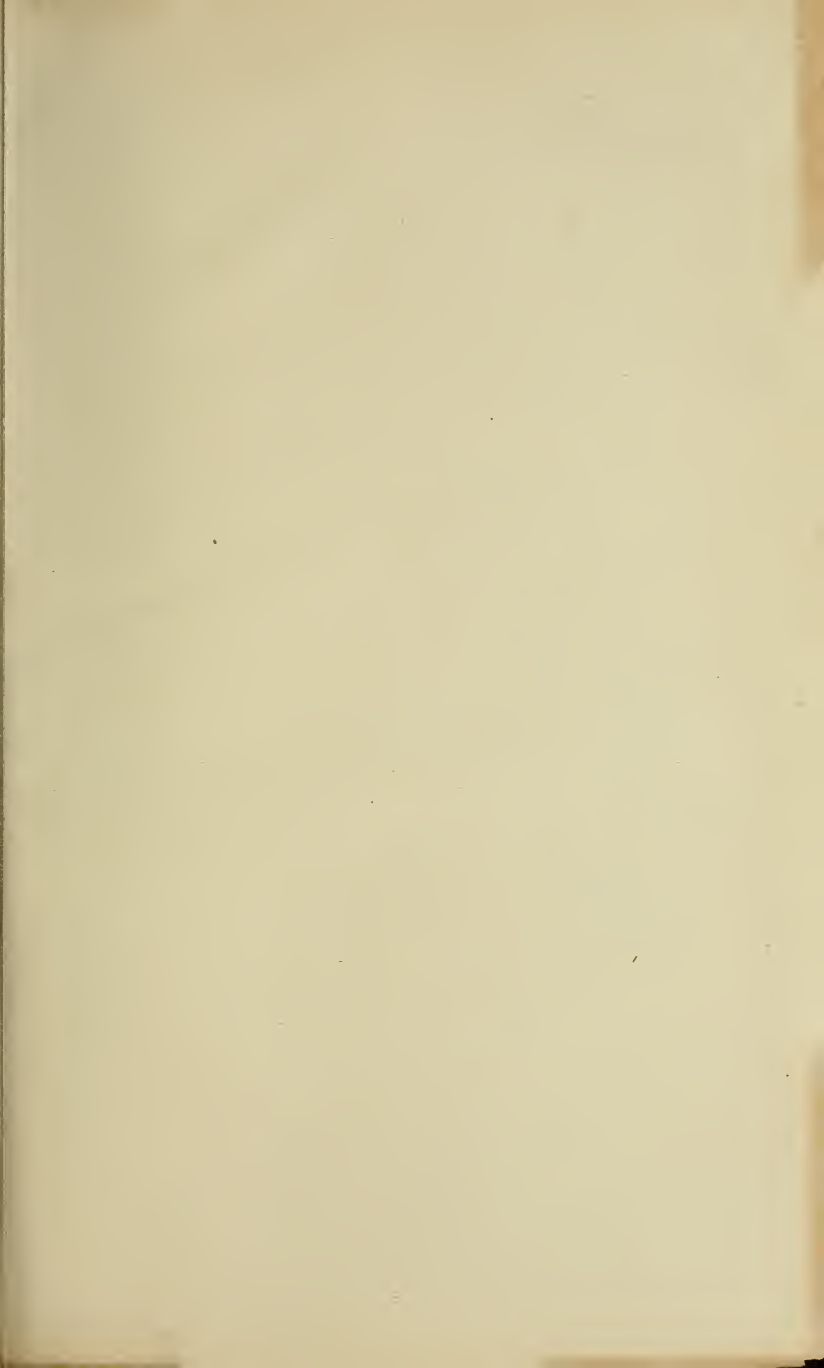
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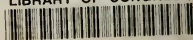








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